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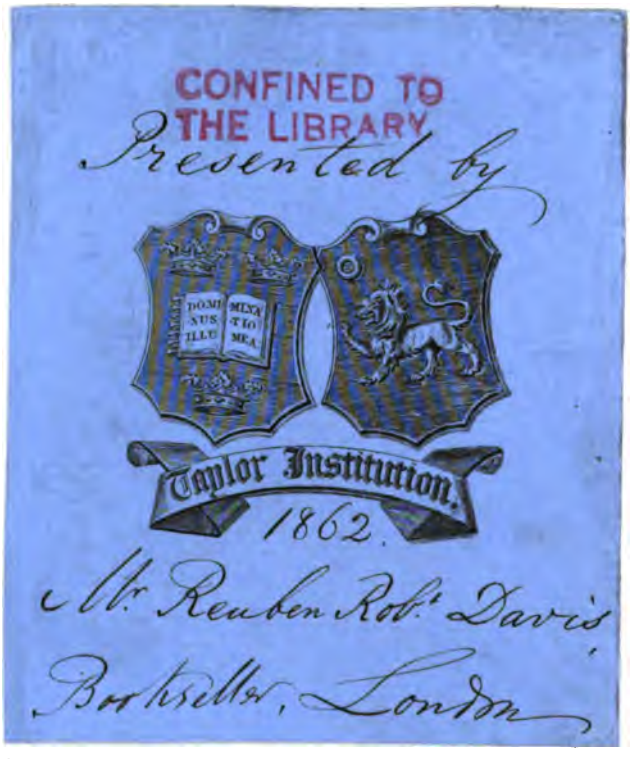

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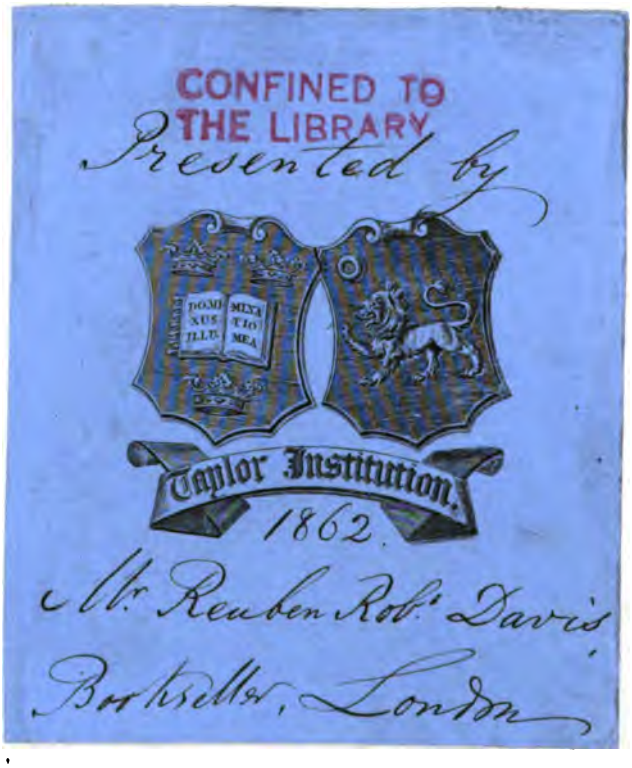

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CATALOGUE

OF

BOOKS ON FOREIGN LAW,

FOUNDED ON

THE COLLECTION

PRESENTED BY

CHARLES PURTON COOPER, ESQ.

TO

THE SOCIETY OF LINCOLN'S INN.

LAWS AND JURISPRUDENCE OF FRANCE.

LONDON:

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1849.

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LAWS AND JURISPRUDENCE

OF

FRANCE.

ANCIENT PART.

PREFACE.

THE ensuing pages have been composed upon the model of the Specimen laid before the Benchers, Hilary Term, 1847, "in order that the plan of the Catalogue, should it not meet with their approbation, might be modified or changed." In consequence, "the titles of all the works collected and proposed to be collected" have been inserted. (See the Preface to the Specimen, Laws of Spain.)

Mr. Cooper, to whom the sheets when revised by the Compiler for the press have, whenever there was the opportunity, been submitted, has noticed some defects, which could not then be supplied without much delay and expense. It is proposed to remedy these defects by an Appendix.*

At one time it was intended to give, at the close of

* Amongst the defects pointed out by Mr. Cooper is the absence of any notice of several works mentioned in some of our Law Books, and particularly in the Privy Council Reports of Messrs. Knapp and Moore. In the Appendix an account will be given of all these works. Another defect pointed out by Mr. Cooper is, that in Biographical Dictionaries the names of some old French lawyers occur, which are not to be found in these pages. The names of all such lawyers, as may have escaped the Compiler's attention, will be inserted in the Appendix, and their works will be specified.

the volume, a list of cases which have occurred in the Courts of Westminster Hall, in which a knowledge of some of the books mentioned in this part of the Catalogue might have been serviceable. But that intention has been abandoned, as the preparation of the list would occupy a good deal of time, and the Compiler has received instructions to bring this part of his work to a close. A perusal of the Index of Subjects must however, as he believes, leave no doubt in every lawyer's mind, that numerous cases have come before our Courts of Law and of Equity, in which considerable advantage might have been derived from an acquaintance with the decisions of the old French Tribunals, and with the opinions and arguments of the old French Advocates.

In a valuable Treatise published at Edinburgh in 1836 is the following passage:—"The Library of the "British Museum and the Public Law Libraries in the "metropolis are very defective in regard to the writings "of the Foreign Jurists. Of ninety-one continental "writers on the subject of the Conflict of Laws quoted, "or referred to, by the American jurists, Livermore and "Story, a large proportion is not to be found in these "Libraries; but, except six, I see them all marked in the "catalogue of that admirable repertory of books of law, "the 'Library of the Faculty of Advocates in Edin-"burgh.'"*

* Robertson on the Rules of the Law of Personal Succession in the different Parts of the Realm, p. 124.

As this Catalogue will point out all the books useful, historically, or in legal practice,* it is probable that no long time will elapse before the Library of Lincoln's Inn will, in the Foreign Law Department, be equal, if not superior, to the Advocates' Library, Edinburgh.

It would be ungrateful were the Compiler not here to acknowledge the great aid which Mr. Spilsbury, the Librarian of the Honourable Society, has afforded him in the prosecution of his task.

F. W. H.

LIBRARY,
Trinity Term, 1849.

* The practical utility of a large proportion of the writings of the old French lawyers may at first appear dubious; but the Compiler believes that those, who have had occasion to advise upon cases from Lower Canada, Saint Lucia, and the Norman Isles, can testify that there is scarcely a work of that class from which assistance may not be derived.

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ON THE LAWS OF FRANCE.

The three nations that made nearly simultaneous conquests in Gaul in the fifth century, were the Franks, the Burgundians and the Wisigoths, all of Gothic origin.

The Franks.

As the modern name of the country is derived from the first of those nations, a short account of them and their laws will occupy the first place here. It would appear that towards the middle of the third century after Christ, a confederacy was formed, under the name of Vrangs or Franks, by the inhabitants of the country on the Lower Rhine, the Lippe, the Weser, and of the island formed by the Rhine and the Meuse; who were known to the Romans under the various names of Chauci, Sicambri, Bructeri, Chamavii, Catti, Salii, Cherusci, &c. These made frequent incursions across the Rhine, and possessed themselves of parts of Gaul; and at the beginning of the fifth century, colonies of them appear to have been settled on the left bank of the Rhine, and on the Meuse, the Moselle and the Scheldt. The Salians and the Ripuarians (in all probability Sicambrians) seem to have been two of the most important tribes of Franks. Amongst other petty kings of the Franks, mention is made of Pharamond (*Warmund* or *Pharmund*), Clodion and Mérovée (*Merwig*): the latter gave the name to the First, or Merovingian, dynasty of the kings of France. Clodion is by some authors called the son of Pharamond, and Mérovée the son of Clodion: these appear to have been kings of the Salian Franks. Some authors however suppose Mérovée not to have been a king of the Salian Franks, but of another tribe. Clodion reigned from 427 to 428: the capital of his dominions appears to have been Tournay. He was succeeded by his son Childeric (*Childrich*), who was the father of Clovis (*Chlodwig*), and reigned from 458 to 481. In the year 486, Clovis, with the aid of his ally Ragnacaire, king of the Franks

who had settled at Cambrai, defeated Syagrius, general of the Romans, at Soissons. He then entered into an alliance with Sigbert (*Sigbrecht*), king of the Ripuarian Franks, and with his assistance defeated the Almanns or Alamanni at the battle of Tolbiac; not long after which battle he seized upon the territories of his Ripuarian allies, the capital city of which was Cologne. From this time the Salian and Ripuarian Franks became one people, the latter nevertheless preserving their customary laws. Clovis at length extended his conquests in Gaul, till they were bounded on the west by the ocean, on the south by the Loire where the territories of the Wisigoths began, and on the east by the territories of the Burgundians.

Code of the Salian Franks.

The Salian and Ripuarian Franks have each left a code of laws called after their respective names. The code of laws of the Salian Franks appears to have been compiled about the year 400, by four chiefs selected out of the leaders of the tribe or nation, whose names are handed down as Bodgast, Wisgast, Salgast and Windgast: the termination "*gast*" means prince, &c. Some authors mention this code as having been compiled by order of Pharamond. The original was probably in the language of the Franks. The code was re-published with amendments by Clovis, about the year 500, or, according to President Hénault, in 511. It was again amended by King Dagobert (*Tagbreth*) in 630, and again by his two sons, and lastly by Charlemagne in 798.

Code of the Ripuarian Franks.

The Ripuarian Code was compiled, according to the statement of several authors, at Chalons in 530, by order of Theodoric or Thierri (*Diedrich*), king of Metz, one of the sons of Clovis; who also caused the laws of the Almanns (*Alamanni*) and Bavarians (*Bawari*, or *Baiuvari*, or *Bajuvarii*), two other nations under his rule, to be compiled. It was amended by his two brothers Childebert and Clotaire (*Childbrecht* and *Chlotar*) and by Dagobert, about the year 630.

The Wisigoths.

The Wisigoths, whose settlements were to the south of the Loire, and to the west of the Rhone, first entered Gaul in 412, under their king Ataulf or Astolf. The capital of their dominions was at first Narbonne, and afterwards Toulouse. They continued in the possession of their territories in Gaul, or part

of them, till the invasion of the Arabs or Moors, at the beginning of the eighth century. Of the codes of laws made by the Wisigoth kings, both for Romanized inhabitants of Gaul and Spain (their subjects), and for their own countrymen, an account will be found in the introduction to the Spanish portion of this Catalogue.

Their Codes of Laws.

The Burgundians (who were of the race of the Vandals), after having made several incursions across the Rhine, at length, with the consent of the Emperors Honorius and Valentinian, settled in Gaul, between the Rhone and the Alps: their dominions included all the country to the east of the Franks and the Wisigoths. Geneva was their capital at first, and Lyons afterwards. They have left a code of laws, called after their name, and which in the middle ages was denominated the *Loi Gombette*, and the *Lex Gundebada*. It is generally supposed that this code was begun by Gondebald (*Gunbald*), king of the Burgundians, about 471, and completed by him in the latter years of his reign; and the two additions to it were probably made by his successor, Sigismund (*Sigmund*). In 504 Clovis's sons, Childebert and Clotaire, attacked Burgundy and divided it between them; thus putting an end to this kingdom as an independent state.

The Burgundians.

Code of the Burgundians.

With regard to the condition of the Romanized Gauls under the Franks, the Wisigoths and the Burgundians, the conquerors allowed them to be governed by their own laws and tribunals. The lands were divided in this manner: the ancient inhabitants had one-third, and the respective conquerors retained the other two-thirds. For the use of the Romanized inhabitants of that part of Gaul which was conquered by the Burgundians, a body of laws was compiled about the year 517: it is known by the name of the *Lex Romana*, or the *Papiani Liber Responsorum*, and was probably compiled by Papianus, who is supposed to have been a Roman lawyer. This code, together with another code generally called the *Breviarium Alaricianum* (compiled for the use of the Romanized subjects of the Wisigoths in the south of Gaul and the north of Spain), will be found in the part of this Catalogue which is appropriated to the Roman or Civil Law.

Code for the Romanized inhabitants of Burgundy.

Capitularies.

Other laws, by some called Constitutions, and by Baluze and others Capitularies (that is, laws divided into chapters), were enacted by the succeeding princes of this first dynasty. On the death of Childebert III., the last king of the Merovingian race, the crown passed to Pepin, the founder of the Second or Carlovingian dynasty. The laws enacted by the latter dynasty are also known by the name of Capitularies, and have been collected and published by Baluze and others. Baluze's collection comprises the Constitutions and Capitularies from 554 to 837, and also the other Capitularies (with additions) of Charlemagne and his son Louis (*Hludwig*) the Pious, and those of other princes, in seven books, from the year 789 to 921. The greater part of these Capitularies relate to ecclesiastical matters, and were enacted, or at least published, in the general assemblies or councils, which were held once a year. In the time of the second race of kings, fiefs were fully established in France; and towards the close of the same race, the Salic, Ripuarian and Burgundian Laws, and the Capitularies, were falling into disuse. In 912 the Normans, under their duke or leader Rolf or Raoul, or Rollo, finally settled in that part of France, which was then called Neustria, but from them has taken the name of Normandy. They were governed by their own laws or customs, which in course of time were collected into a body, and have been handed down under the name of the *Coutume de Normandie.* These laws or customs are in force in the Norman Isles belonging to England.

The Third or Capetian dynasty of the kings of France began in the person of Hugh Capet, in 987. In little more than a century from that period, was compiled the body of laws known under the name of the *Assises de Jerusalem.* This code was begun by Godfrey of Bouillon, immediately after the conquest of Jerusalem in 1099 by the Christians under his command, for the government of the newly-acquired kingdom, and is derived in great part from the *coutumes* and laws of France. As this compilation was intended only for the use of the above mentioned kingdom, it cannot properly be regarded as forming part of the legislation of France.

Assises de Jerusalem.

Some of the early laws of this third race are termed *Éta-*

blissemens by the compilers of the *Recueil Général des Anciennes Lois Françaises;* but the compilers of the collection of the ordinances called the Collection of the Louvre, give to them the general name of Ordinances. Under the term Ordinances are comprised charters, letters-patent, decrees of the parliament, privileges granted to towns, papal bulls, treaties, &c. The *Établissemens* were some of them in the nature of petty codes, as the *Établissemens* or Book of Trades, compiled by the *Prévôt* Boileau about the year 1260, in two parts; and the larger collection published in 1270, and generally known by the name of the *Établissemens de St. Louis.* Municipal corporations or councils (*communes*) seem to have been generally established in France towards the thirteenth century. Many of the ordinances of this third race, particularly those of the reign of Louis XIV., may not unaptly be termed codes; as the ordinance of March, 1673, for commercial matters, may be called the *Code Marchand;* that of April, 1667, for the administration of justice in civil matters, the *Code Civil;* that of August, 1670, for criminal matters, the *Code Criminel;* and, lastly, that most important ordinance of August, 1681, for maritime affairs, the *Code Marin.*

Établissemens.

Independently of the ordinances of the kings of France, the greater part of the provinces were governed, till the Revolution, by their own local customary laws, which were peculiar to each, and were called *Coutumes:* these *Coutumes* were their civil and common law. The other provinces were governed by the Roman law. By the term "Roman law" must be understood, not Justinian's legislation, for that was little known in the west till the discovery of the Pandects at Amalfi about the year 1137, but chiefly the Theodosian Code, or rather Alaric's *Breviarium,* which often passed under that name, and is stated to have entirely superseded that code. After the discovery of the Pandects, Justinian's legislation gradually prevailed, and continued to be followed, in the *Pays de Droit écrit,* till the Revolution in 1789. The provinces that were governed by their customary laws were those in the centre and in the north (except Alsace): these provinces were called the *Pays Coutumiers.* The origin of these *Coutumes* is a subject of great obscurity: some of them

Coutumes.

Pays de Droit écrit.

Pays Coutumiers.

are probably nearly as old as the monarchy, and many of them can be traced up to the eleventh and twelfth centuries. By virtue of several ordinances, the earliest of which was that of Charles VII. in 1453, the whole of these *coutumes* were digested or reformed and remodelled, principally in the course of the sixteenth century. The original intention of this digesting and reforming of the customary laws was to form one general law out of the whole; but this intention was never carried into effect. The provinces that were governed by the Roman law (which was their civil and common law) were those in the south, namely, Languedoc, Provence, Le Béarn, La Navarre, La Guienne, Le Dauphiné, Le Lyonnais, Le Mâconnais, a part of Saintonge, of Auvergne, and of La Basse Marche, Les Provinces Basques de Lubour et de Soule, Le Roussillon, and Alsace in the north. These provinces were called the *Pays de Droit écrit.* The Roman law had no force in the *Pays Coutumiers,* though some portions of it were nevertheless in process of time incorporated with the *Coutumes.*

Notables.

The financial difficulties under which France had for a considerable time laboured before the Revolution, became at length so pressing as to cause the king to assemble the *Notables* in 1787, in order to find a remedy for the evil. This assembly consisted of the nobility, the clergy and the magistrates, &c. The step thus taken proving ineffectual, the States-General (*Etats Généraux*), consisting of the deputies of the nobility, clergy and commons (*Tiers-État*) from all parts of France, were assembled in 1789. This assembly of the three orders of the nation assumed, in the same year, the name of the National Assembly; it afterwards assumed other names. By this assembly a new territorial division of France was made for the purposes of justice, and for the general administration of the affairs of the country. Privileges were abolished, the laws in existence were altered, and at last annulled; and new laws were introduced temporarily in their stead. At length, at intervals in the years 1803 and 1804, under the auspices of the first consul of the French Republic, a code of civil laws for France was promulgated. A most interesting account of the compilation of this code will be found in Thiers's *Histoire du Consulat et de l'Empire.* In 1806, by the authority of the Emperor Napoleon,

States-General.

Modern Codes.

was published the code of civil process; in 1807, the commercial code; in 1808, the code of criminal process (*Instruction Criminelle*); and in 1810, the penal or criminal code. All these codes were published under the Emperor's auspices, and some of them with the help of his suggestions. The civil code is more generally known by the name of the *Code Napoléon*. In 1827 was published a code of laws applicable to forests and woods, and called the *Code Forestier*. In 1791 laws were enacted concerning rural matters, to which the name *Code Rural* has been given. There are also special laws regarding the Military, the National Guard, Municipal Corporations, the liberty of the press, hunting and shooting, and fishing in rivers; the two latter of which are respectively called the *Code de la Chasse* and the *Code de la Pêche Fluviale.*

Collections of the Ordinances.

A general collection of the ordinances, &c. of France previously to the Revolution will be found in the before-mentioned collection of the Louvre, or in the collection of the *Anciennes Lois Françaises;* the latter brings down the laws to the opening of the States-General on the 5th May, 1789. The laws enacted from that period (exclusively of the codes which have been compiled since the Revolution) will be found in the *Collection Complète des Lois, &c.* by Duvergier, and in the nine series of the *Bulletin des Lois de France.* These nine series, including the year 1845, amount to 120 volumes in 8vo. There are other partial collections of the laws, of which a particular account will be found in the second volume of Camus's *Lettres sur la Profession d'Avocat,* Paris, 1832, 2 vols. 8vo.; but a complete collection of the whole of the laws of France is still a *desideratum.* It has been thought advisable, for obvious reasons, to divide the French portion of this Catalogue into two divisions or parts; the one comprising the ancient laws of France and treatises on law, and the other the modern laws and treatises.

Authorities:—Sismondi, *Histoire des Français;* Daniel, *Histoire de France;* Hénault, *Nouvel Abrégé Chronologique de l'Histoire de France; L'Art de vérifier les Dates;* Laferrière, *Histoire du Droit Français;* Bernardi, *Origine et Progrès de la Législation Française;* Klimrath, *Travaux sur l'Histoire du Droit Français;* Davoud-Oghlou, *Histoire de la Législation des Anciens Germains,* &c. &c.

FRANCE.

LAWS AND JURISPRUDENCE.

ANCIENT PART,

EXTENDING FROM THE YEAR 400 TO THE YEAR 1789.

CONTENTS.

1. Collections of Laws and *Coutumes*.
2. Ancient Books of Practice, &c. before the year 1500.
3. Colonial Laws.
4. Reports of Cases (including celebrated Trials), and *Plaidoyers*, &c.
5. Digests and Dictionaries.
6. Books of Practice, &c. from the year 1500.
7. Collected Works of Authors in chronological order.
8. Treatises in alphabetical order.

1. COLLECTIONS OF LAWS, &c.

Laws of the Salian Franks.

LEX SALICA.—The Laws of the Salian Franks, called by the different names of the *Pactus Salicus*, the *Lex Salica*, and the *Liber Legis Salicæ*. [From Canciani's *Barbarorum Leges*. Venice. 5 vols. fol. 1781—92. Vol. I. p. 17.]

This is the first code of the laws of France, and appears to have been originally compiled about the year 400; the various amendments which were made in it have been already mentioned (p. 2). Charlemagne's edition of it is called the *Lex emendata*, or the *Lex reformata*. The language in which the code was originally compiled was in all probability the Frankish; but the language in which it has been handed down to us is the Latin. The number of the titles of this first collection of the laws of France varies considerably, as may be seen in the different copies contained in Canciani's, Lindenbrog's, Walter's and Pardessus's collections. A good separate edition of this body of laws was published by Wendelin, at Antwerp, in 1649, folio. Besides the text, it contains a dissertation on the original seat, &c. of the Franks in 16 chapters, with a map, and a glossary both of the original Frankish words inserted in or subjoined to the Latin text (according to the

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opinion of Canciani), at its first compilation, as a means of reference to the original laws then existing in the Frankish language, and also of those words which are used in the Latin text itself, and are made out of Frankish words by giving them Latin terminations and inflexions. This edition by Wendelin is very convenient and satisfactory. In 1843 M. Pardessus also published an edition of the Salic laws, in a large 4to volume, which contains several texts of the laws (including the *Lex emendata*), a preface, valuable dissertations, and notes. Many editions of the Salic laws (and among them Wendelin's edition) have a gloss contained in the text, which is nothing more than an insertion of the original Frankish or Teutonic words or expressions, in nearly every law or paragraph. This gloss is usually known by the name of the "Malberg Gloss;" *mâl* or *mahl* signifies a meeting, and *berg* a hill, that is, the place of meeting wherein the laws were enacted and justice administered. The Salic law itself is often referred to under the name of Malberg. A work on the subject of the Salic laws was published by Leo, in 2 parts, Halle, 8vo. 1842—45. The third part has not yet appeared. The title of this publication is *Die Malbergische Glosse, ein Rest Alt-Keltischer Sprache und Rechtsauffassung*. Another work on this subject was published at Kiel, 1846, 8vo. by Waitz, intituled *Das alte Recht der Salischen Franken*. This work contains a dissertation, the text of the laws, and two glossaries. The titles in the edition here inserted are 71 in number, and they are divided into 405 articles or laws; they are as follow:—

Tit. 1. Of summonses; 2. Of pig-stealing; 3. Of cattle-stealing; 4. Of sheep-stealing; 5. Of goat-stealing; 6. Of dog-stealing; 7. Of bird-stealing; 8. Of stealing trees; 9. Of bee-stealing; 10. Of damages done to corn-fields, &c.; 11. Of stealing slaves; 12. Of the stealing of slaves, and of burglaries by freemen; 13. Of robberies committed by slaves; 14. Of the abduction of free-born women by free-born men; 15. Of robberies by free-born men; 16. Of assaults, &c.; 17. Of robbing or despoiling the dead; 18. Of incendiarism; 19. Of wounding and maiming; 20. Of slander, in the absence of the accused party; 21. Of wilful wrongs; 22. Of pressing a free-born woman's hand; 23. Of taking away or stealing another man's ship or vessel; 24. Of robberies in mills; 25. Of getting on another man's horse without his leave; 26. Of killing boys or girls, or cutting their hair; and of wrongs to women; 27. Of unlawful connection with a female slave; 28. Of the enfranchisement of slaves; 29. Of the different sorts of robberies; 30. Of hiring persons to kill others; 31. Of mutilations; 32. Of injuries or wrongs; 33. Of obstructions on public roads; 34. Of binding a free-born man or freeing a man from the *graphio's* hands; 35. Of hunting or the chase; 36. Of inclosures; 37. Of killing slaves; 38. Of cases in which a man is killed by domesticated animals; 39. Of searching for stolen animals; 40. Of horse-stealing; 41. Of carrying off slaves; 42. Of accusations of robbery made against slaves; 43. Of killing free-born men; 44. Of murders committed by men assembled tumultuously, &c.; 45. Of murders committed at a feast; 46. Of the marriages of widows; 47. Of taking possession of property not belonging to a man, and of prescription; 48. Of donations with livery of possession;

49. Of finding one's property and delivering it into the hands of a third party, for the purposes of justice; 50. Of false witnesses; 51. Of producing witnesses; 52. Of the refusal to pay debts; 53. Of unlawful seizures by the *graphio;* 54. Of loans or lendings; 55. Of the ordeal of boiling water; 56. Of the murder of a *graphio;* 57. Of the violation of tombs, &c.; 58. Of burning or robbing churches and murdering clergymen; 59. Of refusing to appear to summonses in courts of justice; 60. Of the *rachimburgs* (inferior judges) refusing to do justice; 61. Of the *chrencruda;* 62. *De allodis.* [The 6th law or paragraph of this title has been the subject of much controversy. It has been pretended that the right of excluding females from the throne of France is authorized by it. It formed the subject of the famous dispute as to the succession to the throne of France, between Edward III. of England and Philippe de Valois, king of France. See Rapin's Dissertation on the Salic Law, in his History of England, vol. i. Tindal's translation. 8vo. London. 1728—31; and Montesquieu, book 18, chap. 22.] 63. Of the ceremony of a man's disconnecting himself with his family; 64. Of the *charoena* [in some editions *harowena*]; 65. Of compositions for murder; 66. Of murder committed in the presence of the enemy; 67. Of calling a man or woman sorcerer, &c.; 68. Of cutting off the tail of another man's horse; 69. Of cutting a man down from the gibbet; 70. Of refusing to marry a girl after betrothment; 71. Of injuries to property; 72. Of burning the king's palace; 73. *De cultello sexxaudro;* 74. Of killing a pregnant woman; 75. Of the *anstrustio;* 76. Of residing in another man's house; 77. *In quantas causas thalsptas debeant jurare;* 78. *De delaturâ;* 79. *Incipiunt chunnas.*—Epilogue.

Lex Ripuariorum.—The Laws of the Ripuarian Franks.

Laws of the Ripuarian Franks.

[From Canciani's *Barbarorum Leges,* vol. i. p. 297.]

Mention has already been made (p. 2) of the time both of the original compilation of this code of laws and of the amendments therein afterwards made. A French translation of this code, and of that of the Salian Franks, with the Latin text and notes, was published at Paris, in 1828. 8vo. This collection of laws is divided into 91 titles, which are subdivided into 236 articles or laws.

Tit. 1. Of blows given to a free-born man; 2. Of the shedding of blood; 3. Of the breaking of a bone; 4. Of internal wounds; 5. Of mutilations; 6. Of castration; 7. Of murder; 8. Of the murder of slaves; 9. Of the murder of the king's men; 10—14. Of the murder of men belonging to the church, of *anstrustions*, women, young girls, or of a woman belonging to the church; 15. Of concealed murder; 16. Of attacks on the liberty of a free-born man or woman; 17. Of incendiarism; 18. Of the crime called *Sonesti* (that is, stealing brood-mares, &c.); 19. Of blows given to a slave; 20. Of the shedding of blood; 21. Of breaking a slave's bone; 22. Of the breaking of a free-born man's bone by a slave; 23. Of blows given

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by one slave to another; 24. Of shedding blood (among slaves); 25. Of the breaking of bones (among slaves); 26. Of mutilations (among slaves); 27. Of castration (among slaves); 28. Of murders (among slaves); 29. Of robberies by slaves; 30, 31. Of masters answering, &c. for the crimes of their slaves; 32. Of masters answering, &c. for their slaves when they fly into the interior of the country; 33. Of the necessity of appearing, &c. for a free-born man; 34. Of summonses; 35. Of finding one's property and delivering it into the hands of a third party, for the purposes of justice [by way of deposit); 36. Of the abduction of free-born women; 37. Of the abduction of married women; 38. Of the different kinds of murders; 39. Of marriage portions; 40. Of accusations before the king; 41. Of pressing the arm or hand of a free-born woman; 42. Of getting on another man's horse without his leave; 43. Of binding a free-born man; 44. Of the chase and fishing; 45. Of inclosures; 46. Of going through a corn-field with a cart; 47. Of concealing stolen goods in another man's house; 48. Of cases of death caused by a domesticated animal; 49. Of the search for stolen animals; 50. Of leaving no lawful heir; 51. Of mutual gifts by husbands and wives; 52. Of the producing of witnesses; 53. Of seizures made by the *graphio* at the suit of a party not entitled; 54. Of lendings or loans; 55. Of the murder of a *graphio;* 56. Of stripping or despoiling a dead body; 57. Of the decisions of the *rachimburgs;* 58. Of inheritances, or property descended; 59. Of enfranchisements made before the king; 60. Of enfranchisements by deed; 61. Of sales; 62. Of livery [of lands] and proof testimonial; 63. Of enfranchisements according to the Roman law; 64. Of making slaves tributary or *liti;* 65. Of murder committed in the presence of the enemy; 66. Of murder committed in a house; 67. Of refusing to obey the prince's orders; 68. Of oaths; 69. Of dying without children and indebted; 70. Of fractures of bones not followed by the shedding of blood; 71. Of treason; 72. Of death caused by the falling of a piece of wood; 73. *De festucâ intercurrente*; 74. *De homine intertiato;* 75. Of favouring the escape of a robber; 76. No sale to, nor exchange with a slave, to be made; 77. Of estrays, &c.; 78. Of stealing timber and other trees; 79. Of justifiable homicide; 80. Of harbouring a robber; 81. Of the succession to property belonging to a man hanged; 82. Of obstructions on public roads; 83. No boy under fifteen years of age to appeal for murder, nor to be summoned to appear in Court to answer; 84. Of damages to corn-fields or inclosures; 85. Of sorcery, &c.; 86. Of seizures by the *graphio* at the suit of a party not entitled; 87. Of despoiling a dead body; 88. Of flaying another man's horse; 89. Of men condemned to banishment; 90. Judges forbidden to take bribes; 91. Judges and fiscal commissioners or officers forbidden to require the *freda*, &c.

LEX BURGUNDIONUM.—The Laws of the Burgundians. [From Canciani's *Barbarorum Leges*, vol. iv. p. 14.]

Laws of the Burgundians.

This code of laws of the Burgundians, of which an account has already been given (p. 3), is divided into 110 titles, including those of the two additions made to it. The titles are subdivided into articles or laws, the number of which is 372. There is appended a list of the persons who signed as witnesses, &c.

Tit. 1.—Of the liberty allowed to fathers of making gifts of their property, &c., and of gifts by the crown; 2. Of murder; 3. Of the freedom of enfranchised slaves; 4. Of enticing away slaves, and of thefts or robberies; 5. Of striking or kicking any one; 6. Of runaway slaves and others; 7. Of slaves and *originarii*, that are put on their trial for crimes; 8. Of free-born men (*ingenui*), that are put on their trial for crimes; 9. Of the taking away of property by force; 10. Of the killing of slaves; 11. Of wounding, &c.; 12. Of the abduction, &c. of unmarried women; 13. Of the grubbing up, &c. of land; 14. Of inheritances or successions, and of nuns; 15. Of the stirring up of quarrels, &c.; 16. Of seeking after lost animals; 17. Of suits generally; 18. Of accidental deaths, &c.; 19. Of the taking away of pledges, &c.; 20. Of thefts by slaves; 21. Of dealings with slaves; 22. Of the carrying on of the suits of Romans by Burgundians, &c.; 23. Of damages done by animals; 24. Of Burgundian women marrying a second or third time; 25. Of forcible entries, &c.; 26. Of striking out the teeth; 27. Of breaking hedges, &c.; 28. Of the liberty to cut down wood generally; 29. Of assaults, burglaries, &c.; 30. Of violence offered to women; 31. Of the planting of vines; 32. Of binding a man unlawfully and without a cause; 33. Of insults, &c. offered to women; 34. Of divorce; 35. Of the punishment of slaves offering violence to free-born women; 36. Of incest and adultery; 37. Of drawing a sword with intent to hurt any one; 38. Of hospitality to travellers, &c.; 39. Of receiving foreigners, &c.; 40. Of giving freedom to slaves; 41. Of burning the prince's crops; 42. Of the inheritances of those that die without children; 43. Of donations or gifts; 44. Of adultery committed by unmarried women, and by widows; 45. Of the denial of crimes, &c. charged to a person, &c.; 46. Of those who place *tensuras* (bows) to kill wolves [this is curious]; 47. Of the condemnation of robbers, their wives and children; 48. Of wounds inflicted in self-defence, &c.; 49. Of damages done by animals in closes, or by stray horses; 50. Of killing the bailiff (*actor*) of the king, or of a private person; 51. Of the non-delivery of children's portions, &c.; 52. Of women who have been betrothed, marrying other men, &c.; 53. Of the inheritances of those children who, after their father's death, and during the lives of their mothers, die intestate; 54. Of those who should take the third part of the slaves, and the two parts of the lands, contrary to the public interdict [this is curious]; 55. Barbarians (*barbari*) are not to interfere when disputes as to boundaries arise between two Romans [this is

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curious]; 56. Of slaves bought in *Almannia*: 57. Of the emancipated slaves of the Burgundians, who have not the means of leaving their masters' houses; 58. Of the killing of dogs; 59. Of grandchildren; 60. Of producing the witnesses to donations or gifts, &c.; 61. Of women, *quæ sponte ad viri coitum venerint*; 62. Of an only child; 63. Of those who steal corn in granaries; 64. Of animals killed whilst in the harvest field; 65. Of widows that are called on to pay their husbands' debts; 66. Of girls marrying that have neither father nor mother alive; 67. Of woods; 68. Of adultery; 69. Of dower, &c., (*wittemon*); 70. Of thefts or robberies; 71. Of compounding for thefts, &c.; 72. Of springes or guns set to catch wild beasts, &c.; 73. Of tying bones &c. to horses' tails; 74. Of widows and their children; 75. How the inheritance is to be divided between a grandchild and an aunt by the father's side; 76. Of the officers for collecting fines (*de wittiscalcis*); 77. *De inscriptionibus*; 78. Of succeeding to inheritances; 79. Of prescription; 80. Of false witnesses, &c.; 81. Of delays or hindrances by the judges; 82. Of bail; 83. Of a man's recognising his property when in the possession of another; 84. Of the sale of lands; 85. Of wards; 86. *De malâ heredâ*; 87. Of the contracts, &c. of minors; 88. Of the emancipation of slaves; 89. Of the capture of felons, &c.

The first Addition.—Tit. 1. Of stopping up roads, &c.; 2. Of damages done by cattle; 3. Of judges, &c.; 4. Of free-born men committing robberies with slaves; 5. Of maliciously cutting off women's hair, &c.; 6. Of breaking a man's arm or leg; 7. Of ships, &c.; 8. *De viatoribus*; 9. Of bail, &c.; 10. Of dogs for hunting wild boars, &c.; 11. Of hawks; 12. Of deeds of sales of land without witnesses; 13. *De mulieribus, quæ se de voluntate suâ ad maritos tradunt*; 14. Of dower &c. (*wittemon*); 15. Of Jews assaulting Christians; 16. Of vineyards; 17. Of asses; 18. Of pledging other men's oxen; 19. Of enfranchisement, pretensions to it, &c.; 20. Of vineyards in respect of damages done to them by animals.

The second Addition.—This consists of 13 laws or articles which relate to captive slaves, foreigners, the non-circulation of certain monies, and other miscellaneous matters.

At the end are 20 *capitula*, added by Charlemagne; these relate to bishops, churches, widows, wards, intestacies, prisons, and various other subjects.

Capitularies of the Kings of the First and Second Races.

CAPITULARIA REGUM FRANCORUM. Additæ sunt Marculfi Monachi et aliorum Formulæ veteres, et Notæ doctissimorum virorum. Stephanus Baluzius, Tutelensis, in unum collegit, ad vetustissimos Codices Manuscriptos emendavit, notis illustravit, magnam partem primùm edidit anno 1677. Nova Editio auctior ac emendatior ad fidem autographi Baluzii qui de novo textum purgavit, notasque castigavit et adjecit: accessêre Vita Baluzii partìm ab ipso scripta, Catalogus Operum hujus Viri clarissimi,

cum animadversionibus historicis, et Index variorum Operum ab eo illustratorum, quorum plurimorum novas meditabatur Editiones. Curante Petro de Chiniac, Regi à Consiliis, Prosenescallo Generali Civili Userchæ, è Regiâ humaniarum Litterarum Academiâ Montis-Albani. 2 vols. fol. Paris, 1780. COLLECTIONS OF LAWS, &c.

A collection by Baluze of the Laws enacted by some of the latter Kings of the first race, and by the greater part of the Kings of the second race of the Monarchs of France: the laws are usually styled *Capitularia*, that is, laws divided into chapters. The Capitularies begin in the year 554, and end in 921. The two volumes are divided (though not formally) into three parts.

Étienne Baluze was born at Tulle in the Limousin, on the 24th December, 1630. He was author or editor of no less than forty-five different works of a similar character to the Capitularia; a complete list of which is given in the first volume of this edition of the Capitularies. He died on the 28th July, 1718. The contents of the two volumes are as follows:—

Vol. I. contains the Capitularies of Childbert I., Clothaire I., Gontram, Clothaire II.; of Dagobert I., (including the *Lex Ripuariorum*, the *Lex Alamannorum*, and the *Lex Bajuvariorum*); of Karlomann, Prince; of Pepin, Prince and King; of Charlemagne (including the *Pactus Legis Salicæ*); of Pepin, King of Italy; and of Louis the Debonnaire.

Vol. II. contains the Capitularies, &c. of Charles the Bald; of Louis the Stammerer; of Karlomann; of King Otho; of Charles II.; of the Emperor Lothaire; of the Emperor Louis II.; the coronation, &c. of Charles the Bald and Louis his son, and of the wife and daughter of Charles; collections of forms, under the following titles:—the *Formulæ Marculfi*, in two books, with an appendix, the *Formulæ Sirmondicæ*, the *Formulæ Lindenbrogii*, the *Nova Collectio Formularum*, and other *Formulæ* of Excommunications, &c.; Pithou's Glossary to the Salic Law and to the books of the Capitularies; Sirmond's Notes to the Capitularies; the *Analecta Opusculorum*; Bignon's Notes to the Salic Laws, the Constitutions and Marculf, &c.; Baluze's Notes to the Capitularies, &c. and to Marculf; the *Liber Comitis, sive Lectionarius per Circulum Anni, auctus à Theotincho Presbytero*; an appendix of old deeds; three engravings of Charlemagne, one of Charles the Bald, two of coins; an index. The first volume contains a preface by Baluze, and another by Pithou, and a short account of the life of Baluze.

Ordonnances des Roys de France de la 3ème Race, recueillis par Ordre Chronologique. Avec des renvoyes des unes aux autres, des sommaires, des observations sur le texte, et 5 Tables, la 1ère des Pâques, la 2e des Ordonnances par l'ordre de date, la 3e des Matières, la 4e des Noms des Personnes, et la 5e des Ordinances of the French Kings of the Third Race to the year 1514.

COLLECTIONS OF LAWS, &c.

Noms des Lieux. 23 vols. (including 2 vols. of Indices,) fol. Paris, 1723—1847.

An official collection of the ordinances of the kings of France of the third race; which was originally intended to be brought down to the end of the reign of Louis XII. This collection is generally known by the name of the *Collection du Louvre*, or of the *Ordonnances du Louvre*. M. de Laurière, an eminent advocate and antiquarian, and the person originally employed in the work, published the first volume in 1723, and the collection has been continued by other eminent *French* lawyers or antiquarians. The earliest document contained in it is dated 1051, in the reign of Henry I., the grandson of Hugh Capet, who was the first king of the Capetian or Third Race. Each volume has five indices, and an elaborate and valuable preface. The documents contained in this collection are in the language in which they were compiled, whether Latin or old French, and they are at times translated into modern French. The 21st and last volume reaches down to the end of the year 1514. The first collection of the ordinances of the third race of the kings of France was made in 1315, by Guillaume du Breuil, an advocate in the parliament of Paris. The space of time occupied by each volume, and the names of the kings beginning and ending each volume, are as follows:—Vol. I. 1051—1321. Henry I. to Philippe le Hardi. Vol. II. 1327—1352. Philippe de Valois to Jean I. Vol. III. 1355—63. Jean I. Vol. IV. 1350—66. Jean I. to Charles V. Vol. V. 1367—73. Charles V. Vol. VI. 1374—82. Charles V. Vol. VII. 1383—94. Charles VI. Vol. VIII. 1395—1400. Charles VI. Vol. IX. 1404—11. Charles VI. Vol. X. 1412—18. Charles VI. Vol. XI. 1419—22. Charles VI. Vol. XII. Supplements, as well as part of Volume XI. Vol. XIII. 1422—47. Charles VII. Vol. XIV. 1448—60. Charles VII. Vol. XV. 1461—63. Louis XI. Vol. XVI. 1463—67. Louis XI. Vol. XVII. 1467—73. Vol. XVIII. 1474—81. Louis XI. Vol. XIX. 1482—86. Charles VIII. Vol. XX. 1486—97. Charles VIII. Vol. XXI. 1498—1514. Charles VIII. and Louis XII. It is announced that there will be a Supplement to this collection; and that the work will in all probability be continued, in a new series, to a much later period of time. There are two volumes of indices, the first of which was published in 1757, and the other in 1847; the latter, from its copiousness, has entirely superseded the former.

General Collection of the Laws to the year 1789.

RECUEIL GÉNÉRAL DES ANCIENNES LOIS FRANÇAISES, depuis l'an 420 jusqu'à la Révolution de 1789; contenant la Notice des principaux Monumens des Mérovingiens, des Carlovingiens et des Capétiens, et le Texte des Ordonnances, Édits, Déclarations, Lettres-Patentes, Règlemens, Arrêts du Conseil, &c. de la 3ème Race, qui ne sont pas abrogés, ou qui peuvent servir, soit à l'interprétation, soit à l'histoire du droit public et privé, avec Notes de Concordance, Table Chronologique et Table

COLLECTIONS OF LAWS, &c.

Générale analytique et alphabétique des Matières; par MM. Jourdan, Docteur en Droit, Avocat à la Cour Royale de Paris; Decrusy, Avocat à la même Cour; Isambert, Avocat aux Conseils du Roi et à la Cour de Cassation. 29 vols. (including 1 vol. of Index), 8vo. Paris, 1821—33.

This is a collection of the laws of France from the year 420 till the beginning of the French Revolution. The laws are not given at length in the early part of the collection, as expressed in the title-page; and in later parts many of them are mentioned only by way of summary or heading, with a reference to the authorities where they may be found at length. The principal of these authorities are the before-mentioned *Collection du Louvre*, and the *Recueil des Historiens des Gaules et de la France*. Many of the volumes have indices of contents, and prefaces; the names of the kings, in the early part of the collection, are put on one page, and the year on the other; and in the latter part the king's name and the prime minister's are put on one page, and the name of the chancellor or keeper of the seals, and the year, on the other. Under the word "laws," in this collection, are comprised laws strictly so called, decrees, edicts, papal bulls, letters-patent, charters, conventions, treaties, protests, orders, &c. The ordinances, &c. of France were in force in the French colonies, when registered there; and even in France itself it was necessary that they should be registered in the parliaments of the provinces to which they were applicable. The first volume contains a preface by Isambert, in which he gives an account of the former collections of this kind, and mentions the sources from which the present collection is compiled. He also remarks, that many laws and acts of the first and second races, and of the early part of the third race of the kings of France, are omitted in Baluze's collection, and also in the *first general* collection of the laws, &c. of the third race; and that such omissions are supplied in the collection of the French historians, known by the title of the *Recueil des Historiens des Gaules et de la France*, &c.; or in the *Table Chronologique des Diplômes*, &c. and the *Diplomata, Chartæ*, &c., both edited by De Bréquigny and others, and inserted in this Catalogue. The present collection is divided into five series. The space of time occupied by each volume, the number of the series, the names of the kings beginning and ending each volume, and the denominations of the dynasty and branch to which they belong, are as follows:—

Vol. I. 1st Series. 420—752. Race of the Merovingians.—Clovis to Chilperic III. 2nd Series. 752—987. Race of the Carlovingians.—Pepin to Louis le Fainéant. 3rd Series. Race of the Capetians.—Hugh Capet to St. Louis. 987—1270. Vol. II. 1270—1308. St. Louis to Philippe IV. Vol. III. 1309—27. Philippe le Bel to Philippe de Valois. Vol. IV. 1327—57. 4th Series. Branch of the Valois.—Philippe de Valois to Jean. Vol. V. 1357—80. Regency of the Dauphin to Charles V. Vol. VI. 1380—1400. Charles VI. Vol. VII. 1401—15. Charles VI. Vol. VIII. 1415—37. Charles VI. and VII. Vol. IX. 1438—60. Charles VII. Vol. X. 1461—83. Louis XI. Vol. XI. 1483—1514. Charles VIII.

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and Louis XII. Vol. XII. 1514—46. François I. Vol. XIII. 1546—59. Henri II. Vol. XIV. 1559—89. François II. to Henri III. This volume contains a declaration by Charles IX. that he had authorized the St. Bartholomew massacre. Vol. XV. 1589—1610. 5th Series. Branch of the Bourbons.—Henri IV. Vol. XVI. 1610—43. Louis XIII. Vol. XVII.—XX. 1643—1715. Louis XIV. Vols. XXI. XXII. 1715—1774. Louis XV. Vol. XXIII. Index. Vol. XXIV.—XXIX. (1—6) 1774—May, 1789. Louis XVI.

It has been thought proper and useful to notice here particularly several of the ordinances, which were constantly quoted by the ancient French law writers, and are often cited by the modern. And in order to facilitate the search for these ordinances, reference is made to the volumes of the *Recueil Général des Anciennes Lois Françaises*, by Isambert and others, wherein they are severally to be found.

1. The Ordinance of Orleans, concerning the administration of justice, the universities, taxes, &c.; promulgated in 1560, in the reign of Charles IX.—Vol. XIV. p. 63. 2. The Ordinance of Moulins, concerning reforms in the administration of justice; promulgated in 1566, in the same king's reign.—Vol. XIV. p. 189. 3. The Ordinance of Blois, concerning the clergy, hospitals, universities, the administration of justice, offices, the nobility, &c.; promulgated in 1579, in the reign of Henri III.—Vol. XIV. p. 380. 4. The Ordinance of 1629, called the *Code Marillac*, or often, by way of derision, the *Code Michau*. This ordinance relates to ecclesiastical matters, the parliaments, clandestine marriages, the administration of justice, successions, &c.; it was promulgated in 1629, in the reign of Louis XIII.—Vol. XVI. p. 223. 5. The Ordinance of the Woods and Forests, &c. (*Eaux et Forêts*); promulgated in 1669, in the reign of Louis XIV.—Vol. XVIII. p. 219. 6. The Ordinance concerning the *Hôtel de Ville* of Paris (sometimes called the *Ordonnance de la Ville*); promulgated in 1672, in the reign of Louis XIV.—Vol. XIX. p. 25. 7. An Edict concerning the police of the French American Islands, &c. This Edict is generally known by the name of the *Code Noir*, though it only forms part of a collection of laws, &c. published under that title; it is still in force. It was promulgated in 1685, in the reign of Louis XIV.—Vol. XIX. p. 494. 8. An Ordinance on Donations; promulgated in 1731, in the reign of Louis XV.—Vol. XXI. p. 343. 9. An Ordinance on Wills; promulgated in 1735, in the reign of Louis XV.—Vol. XXI. p. 386. 10. A *Règlement* concerning the proceedings before the Council; promulgated in 1738, in the reign of Louis XV.—Vol. XXII. p. 42. The editors of the *Recueil Général des Anciennes Lois Françaises* state, that this *règlement* serves as the basis of the proceedings before the Court of Cassation, and the committee of the *contentieux* of the Council of State. 11. An Ordinance on Substitutions; promulgated in 1747, in the reign of Louis XV.—Vol. XXII. p. 193. 12. An Edict on Mortgages; promulgated in 1771, in the reign of Louis XV.—Vol. XXII. p. 530.

The two following ordinances may be added to the above list:—1. An Ordinance for the General Police of the Kingdom, called *La Cabo-*

chienne; promulgated in 1413, in the reign of Charles VI.—Vol. VII. p. 283. 2. An Ordinance on the Reformation of the Administration of Justice, styled *Ordonnances ou Etablissemens pour la Reformation de la Justice;* promulgated in 1453, in the reign of Charles VII.—Vol. IX. p. 202. The editors of the above-named collection state that it is the first code of French procedure.

There are three collections of ordinances, &c. which are known by the particular designation of—1. *Le Code de Henri III.;* 2. *Le Code de Henri IV.;* 3. *Le Code de Louis XIII.* The first was compiled by Barnabé Brisson, by order of Henri III., but was never of any authority: it was first published in 1587. The second was compiled by Cormier, and was first published in 1615, but was never of any force. In fact, these first two codes do not contain the text of the ordinances, &c. and are therefore regarded as capricious compilations. The third code is a collection of some of the ordinances, decisions of the sovereign courts, &c. promulgated, &c. in the reign of Louis XIII.: it is divided into twenty-six books, which are arranged under certain headings, and was first published in 1628.

As the five following ordinances were, previously to the enactment of the modern codes of France, of paramount importance, it has been thought proper to notice them here. They were compiled under the immediate superintendence of Colbert.

Ordinance of 1667.

1. NOUVEAU COMMENTAIRE SUR L'ORDONNANCE CIVILE DU MOIS D'AVRIL 1667. Nouvelle édition, augmentée de l'idée de la Justice Civile. Par M. [Jousse], Conseiller au Présidial d'Orléans. 2 vols. 12mo. Paris, 1767.

A commentary (with the text) by Jousse, on the civil ordinance of 1667. There is a preface, an analytical index of contents, and an introduction, under the title of *Idée générale ou abrégée de l'administration de la justice.* The ordinance is divided into 35 titles.

Tit. 1. Of the observance of the ordinances; 2. Of adjournments; 3. Of delays, &c.; 4. Of appearance; 5. Of *congés et défauts;* 6. *Des fins de non procéder;* 7. Of other delays, or time allowed; 8. Of warranters; 9. Of exceptions or pleas dilatory; 10. Of interrogatories; 11. Of the time allowed, and the proceedings in the courts of parliament, &c.; 12. Of writs to compel the production of papers, &c.; 13. Proceedings to perpetuate the testimony of witnesses abolished; 14. Of the contestation; 15. Of proceedings in respect of the possessions of benefices; 16. Of the form of proceedings before consuls for commercial matters; 17. Of summary proceedings; 18. Of actions relating to possession, &c.; 19. Of sequestrators, &c.; 20. Of proof or evidence; 21. Of inspections on the spot, &c.; 22. Of the inquiry, &c.; 23. Of exceptions to the witnesses; 24. Of exceptions to the judges; 25. Of actions, &c. against judges; 26. Of proceeding to judgment, &c.; 27. Of execution of judgments;

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28. Of bail; 29. Of giving in accounts; 30. Of the liquidation of the produce of property in dispute; 31, 32. Of costs and taxation; 33. Of seizures and executions or distresses; 34. Of release from arrest; 35. Of *requêtes civiles*.

Ordinance of 1669.

2. NOUVEAU COMMENTAIRE SUR LES ORDONNANCES DES MOIS D'AOÛT 1669 ET MARS 1673. Ensemble sur l'Edit du Mois de Mars 1673, touchant les Epices. Par M. [Jousse.] 2 vols. in 1, 12mo. Paris, 1761.

A commentary (with the text) by Jousse, on the ordinance of 1669, which contains reforms in judicial proceedings, in continuation of the civil ordinance of 1667; on the ordinance of 1673, relating to commerce; and on the edict of 1673, relating to the fees of the judges and others. The first volume contains the ordinance of 1669 and the edict; and the second volume contains the ordinance on commerce, which forms the next article in this Catalogue: each volume has an index of titles, &c. and another of subjects. The ordinance relating to judicial reforms is divided into six titles, which are subdivided into articles; and the edict on the *épices et vacations* (fees) is divided into thirty articles.

The ORDINANCE of 1699.—Tit. 1—3. Of appeals, transfers of causes, &c.; 4. Of the privilege called *committimus*, &c.; 5. Of letters under the great seal; 6. Of letters of respite.

Ordinance of 1673.

3. ORDONNANCE DE LOUIS XIV., Roy de France et de Navarre, POUR LE COMMERCE. Donnée à S. Germain-en-Laye, au Mois du Mars 1673. 24mo. Paris, 1762.

The ordinance of 1673 (which was commonly called the *Code Marchand*), together with a collection of ordinances, &c., from 1673 to 1739, concerning commerce. A new edition of Jousse's Commentary on this ordinance was published by Bécane, with notes, 4to. Poitiers, 1827. The ordinance has twelve titles or chapters, which are divided into articles.

Tit. 1 treats of apprentices, merchants and tradesmen; 2. Of bankers, &c.; 3. Of merchants and others, and books of account; 4. Of partnerships; 5. Of bills of exchange and promissory notes; 6. Compound interest not allowed; 7. Of personal arrest; 8. Of women as separate traders; 9. Of *défenses* and *lettres de répit* (letters of respite to debtors); 10. Of assignments of property by debtors to their creditors; 11. Of failures and bankruptcies; 12. Of the jurisdiction of consuls.

The other edicts, &c. are explanatory of the former, and relate also to the establishment of an exchange, &c. There are two indices.

Ordinance of 1670.

4. ORDONNANCE DE LOUIS XIV., Roi de France et de Navarre. POUR LES MATIÈRES CRIMINELLES. Donnée à S. Ger-

main-en-Laye au Mois d'Août 1670. Nouvelle édition, augmentée des édits, arrêts et règlemens intervenus depuis l'ordonnance, et notamment des édits et déclarations concernant les Duels. 24mo. Paris, 1738. COLLECTIONS OF LAWS, &c.

The ordinance of 1670, for the improvement of criminal process in France. There are additions of edicts, decisions of courts, &c. concerning various matters, including duelling; an index of titles, edicts, &c. and another of subjects. There is a commentary by Jousse on this ordinance, which was published in 1753. The ordinance is divided into twenty-eight titles, which are subdivided into articles.

Tit. 1. Of the competency of the judges in criminal matters; 2. Of the special proceedings before the provosts of the *maréchaussées*, &c.; 3. Of plaints, impeachments (*dénonciations*) and accusations; 4. Of the *procès-verbaux* of the judges; 5. Of the certificates of physicians and surgeons; 6. Of evidence; 7. Of monitories; 8. Of the verification of writings and signatures in criminal matters; 9. Of forgery, falsification, &c.; 10. Of decrees and their execution, and of releasing from prison; 11. Of essoins; 12. Of judgments awarding alimony; 13. Of prisons, &c.; 14. Of interrogatories; 15. Of confronting the witnesses, &c.; 16. Of pardons, commutations of sentences, &c.; 17. Of default and contumacy; 18. Of the deaf and dumb, and of those that refuse to answer; 19. Of torture; 20. Of the converting of civil into criminal proceedings; 21. How proceedings are to be had against corporations, &c.; 22. Of proceedings against a dead person, &c.; 23. Of the abolition of certain writings, &c. in proceedings; 24. Of proceeding to judgment; 25. Of sentences, &c.; 26. Of appeals; 27. Of the proceedings to clear the memory or fame of a deceased person; 28. Special provisions as to evidence, &c.

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5. ORDONNANCE DE LOUIS XIV., Roy de France et de Navarre, donnée à Fontainebleau au Mois d'Aoust 1681, TOUCHANT LA MARINE. 24mo. Paris, 1682. Ordinance of 1681.

This is the celebrated French maritime ordinance, promulgated by Louis XIV.; it was formerly called the *Code Marin*. A valuable commentary on it was made by Valin, and published in 2 vols. 4to. 1758—60. Other earlier enactments concerning French maritime matters will be found in the fourth volume of Pardessus' *Collection des Lois Maritimes antérieures au 18e Siècle*. This ordinance is still of authority in France: it is divided into five books, which are subdivided into titles and articles. There is an index of the books, titles, &c., a vocabulary of sea terms, and an index of subjects. The titles of the books are as follows:—

Book I.—THE OFFICERS OF THE ADMIRALTY AND THEIR JURISDICTION.—Tit. 1. Of the admiral and the competency of the admiralty judges; 2, 3. Of the other officers of the Court of Admiralty; 4, 5. Of the registrar and *huissiers*; 6. Of the receiver of the admiralty; 7. Of the interpreters and others; 8. Of the professor of hydro-

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graphy; 9. Of French consuls in foreign states; 10. Of licences and reports; 11. Of adjournments and delays; 12. Of prescription; 13. Of judgments and executions; 14. Of the seizure and sale of vessels, and the payment of the produce.

Book II.—SHIPS AND THEIR CREWS.—Tit. 1. Of the captain; 2. Of the chaplain; 3. Of the scrivener or writer; 4—9. Of the pilot, the mate, the surgeon, the sailors, the ship-owners, the carpenters and caulkers; 10. Of ships in general.

Book III.—MARITIME CONTRACTS.—Tit. 1. Of charter-parties; 2, 3. Of bills of lading or invoices and freights; 4. Of the hiring of the sailors; 5—7. Of bottomry, insurances and average; 8. Of throwing overboard and contribution; 9, 10. Of captures of vessels and letters of marque; 11. Of the wills of persons dying at sea.

Book IV.—REGULATIONS AS TO PORTS, HARBOURS, ROADSTEADS, &c.—Tit. 1. Of ports and harbours; 2. Of quay-masters; 3. Of pilots; 4. Of ballast and unloading the same; 5. Of captains of the coast-guard; 6. Of people liable to watch the sea-coast; 7, 8. Of the sea-shore and roadsteads; 9. Of shipwrecks, strandings, &c.; 10. Of cutting sea-weed, &c.

Book V.—FISHING IN THE SEA.—Tit. 1. Of the freedom of fishing; 2. Of different kinds of nets, &c.; 3. Of fisheries and *parcs;* 4. Of tunny-nets and crawls; 5, 6. Of herring and cod-fishing; 7. Of royal fish; 8. Of fishermen.

CORSICA. *Statuti Civili, &c.*

STATUTI CIVILI E CRIMINALI DI CORSICA, pubblicati con addizioni inedite e con una introduzione, per magnificenza del Conte Carlo Andrea Pozziborgo, da Giovanni Carlo Gregorj, Consigliere alla Corte Reale di Lione, etc. 2 vols. 8vo. Lyons, 1843.

The Civil and Criminal Statutes of the Island of Corsica, from the earliest period to the year 1715.

The following account of the island is abridged from the valuable introduction to these statutes. Before the occupation of the Island of Corsica by the Romans, colonies had been sent thither from Africa, Liguria, Asia Minor, Phocæa, Tyre, Carthaginia, &c.; and in all probability these colonists introduced the laws of their respective countries. The Romans conquered the island in the 522nd year of Rome, reduced it to the form of a Roman province, and introduced their laws. On the decline of the Roman empire, and about the year 470, the Vandals conquered the island, and remained in possession of it till 534. In 551 Corsica was conquered by the Goths under Totila, and was subdued in 725 by the Lombards, who introduced their laws into the island. In the year 773 Charlemagne invaded Italy, and Corsica fell under his dominion; he preserved the laws which had been introduced by the Lombards, to which additions were made both by him and his successors. The laws in use in Italy and Corsica during the eleventh century were the Roman laws (that is to say, the Theodosian Code), those of the Lombards, the Capitularies, &c. of the Carlovingians,

and the laws of several of the emperors of the Western empire. In the year 1077 the Corsicans gave themselves up to Pope Gregory VII., who surrendered the island to the Pisans in the year 1091. In 1300 Corsica was conquered by the Genoese, who held it, with slight interruptions, till they sold it to the French in 1768. Corsica now forms the 85th department of the kingdom of France. According to the historical introduction to the first volume, the first compilation that is known of these laws was made in 1347, soon after the conquest of the island by the Genoese. This compilation, or part of it, was republished with alterations in 1453; and the editor states in the introduction that the present differs scarcely at all from the two previous collections. In 1571 a new compilation of them was made by the authority of the government of Genoa, and published in 1602. To these laws are added, in the first volume, proclamations by the Doge of Genoa, the governors of the island, &c. on legal and other matters, down to the year 1602. At the end of these are added other laws called the *Statuti di Bonifacio*. These were statutes made for themselves by a colony of Genoese that had settled in the territory of Bonifacio, which were confirmed by the government. The second volume contains some unpublished statutes, &c. extending from 1581 to 1715. The statutes are divided into chapters, and each volume has an index of the chapters.

Vol. I. THE CIVIL STATUTES.—Chap. 1. Of the election of the governor, judges, &c. of the island; 2. Of the elections of the *podestà* of parishes or districts; 3. Parishes, &c. may elect guardians, &c.; 4. Any one may be an attorney, &c. for another; 5. Judges, &c. not to appoint others in their places; 6. Of process; 7. Of the oaths of the parties; 8. Of valuers, &c.; 9. Of arbitrators; 10. Of contumacy; 11. Of witnesses and their expenses, &c.; 12. Of the production of witnesses to perpetuate testimony; 13. Of appeals; 14. Of vouchers for debts, &c.; 15. Of confirmations of deeds; 16. Of the execution of judgments; 17. Judgments not to be rescinded, &c.; 18. The party losing to pay the costs; 19. Of those who ask payment of a debt already paid; 20. Of pleaders or advocates and their fees (*piatesi*); 21. Of *nullità di processi*; 22. Of the allowance to be made to prisoners; 23. Of passes; 24. Of *licenze di sospetto*; 25. Of the curators appointed for suits and minors, &c.; 26. Of the contracts, &c. of minors and women; 27. Of the *venieta* of minors; 28. Causes not to be suspended, &c.; 29. Of selling and exchanging without warranty, &c.; 30. Of the right to re-purchase houses, &c.; 31. Of contracts made out of the isle; 32. Of leases of cattle (*soccide*); 33. Of taking oxen *a boatico* (on hire); 34. Of prescription of ten, twenty and thirty years; 35. Of those that make improvements on the property of other folks; 36, 37. Of quieting in the possession of property; 38. Of improvements made in lands *in feo o censo perpetuo*; 39. Of fields, pastures, &c.; 40. Of ways, waters, &c.; 41. Restrictions as to buying lands; 42. Of wills; 43. Of the property of intestates; 44. Of married and unmarried women; 45. Of bastards; 46. When children are not to require a portion of their fathers or grandfathers; 47. Of the assigning of dower; 48. Those that endow

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women are not to succeed to such property; 49. Of the *composta*; 50. Of the governor's journies, &c.; 51. Of collecting the taxes; 52. Of the election of notaries, &c.; 53. Of the notaries of the court of the *vicario* (a civil and criminal judge); 54. Of the custody of the records of the courts; 55. Of the interpretation of the statutes; 56. Of the carriage of provisions, &c.; 57. Of witnesses to deeds, &c.; 58. Of holydays in courts; 59. Of the election of the twelve, and of the *oratore*.

THE CRIMINAL STATUTES.—Chap. 1. Of the authority of the governor and other judges of Corsica; 2. Of informations; 3. Of visits; 4. Of the way of proceeding in cases of contumacy; 5. Of the proceedings when the accused appears; 6. Of blasphemy; 7. Of gamblers, &c.; 8, 9. Arms, &c. forbidden to be worn; 10. Of fortresses, &c.; 11. Of scaling the walls of garrisons, &c.; 12. Of making charges without proving them; 13. Within what time criminal causes are to be decided; 14. Of torture; 15. Of compelling witnesses to tell the truth; 16. Of slander; 17. Of those that throw dirt before their neighbour's door, or speak slander in the night-time; 18. Of throwing stones in houses, &c. in the night; 19. Of twitting folks for not having revenged themselves, &c.; 20. Of threatening to kill; 21. Of insulting the officers of justice; 22. Of hindering the execution of judgments; 23. Of taking the law into a person's own hands; 24. Of suspicions of robbery, and of finding stolen property in any one's hands; 25. Of the punishment of robbers and assassins; 26. Of the sacrilegious; 27. Of incendiaries; 28. Of wounding, &c.; 29. Of tumultuous meetings for party feuds; 30. Of the damages, &c. to be paid to those that have been wounded, &c.; 31. Of seeking the death or injury of others; 32. Of murder; 33. Of poisoning; 34. Of charging any one with forgery; 35. Of forgery and its punishment; 36. Of producing false documents or witnesses; 37. Of the punishment of false witnesses; 38. Of coining; 39. Of weights and measures; 40. Of removing land-marks, &c.; 41. Of adultery and fornication; 42. Of embracing or kissing women against their will; 43. Of bawds, &c.; 44. Begging (*accatto*) forbidden; 45. How robberies, &c. are to be made good by the parish, &c.; 46, 47. Of damages done by wild beasts, &c., and how they may be killed; 48. Persons not to take away other folks' horses, &c. without their leave; 49. Of sowing corn in uninclosed places; 50. Persons not to lay snares, &c.; 51. Who is to pay the expense of prosecuting malefactors; 52. Of injuries to property; 53. Of compromises of suits; 54. Of bigamy; 55. Prohibition as to certain marriages, feastings, singing, &c.; 56. Persons and letters not to be carried out of the isle without leave; 57. Of harbouring, &c. those that are banished; 58. Of banishment; 59. Of appeals; 60. Of high treason and its punishment; 61. Of harbouring rebels, &c.; 62. Of prosecuting rebels and other banished persons; 63. Of usury; 64. Of contracts for the hire of cattle; 65. Of mending the roads, &c.; 66. Prohibition to export horses, mares, &c.; 67. No greater punishment to be inflicted than what is contained in the sta-

tutes; 68. Of sureties; 69. Of sureties in respect of *la camera*; 70. The people not to be oppressed by taxes, &c.; 71. The judges and others not to take bribes; 72. Of negligent judges and others; 73. Of the importation and manufacture of salt; 74. Of private prisons, &c. (*di quelli che fanno carceri private*); 75. Of supposititious births; 76. Of serving foreign princes, &c.; 77. Of wild mares; 78. The *vicario* and others are not to advise in cases before them; 79. Of the observance of the statutes; 80. Those who capture rebels, &c. to be rewarded.

THE ADDITIONS.—THE CIVIL STATUTES OF BONIFACIO.—Chap. 1. Of the oath of the commissary; 2. Of deposits, &c. (*accommende*); 3. Of sailors; 4. Of arbitrations; 5. Of prescription, of sales of cattle, &c.; 6. Of the duties of the commissary, and how he is to perform them; 7. Of the election of the ancients and council; 8. Of the order to be observed by the ancients; 9, 10. Of the chancellor and treasurer of the *comune*; 11. Minors and aged persons not to fill personal offices in the *comune*; 12. Of the public cistern of the *comune*; 13. Of the oaths of the officers of the same; 14. The statutes of Bonifacio to be construed literally.

Vol. II.—THE UNPUBLISHED ADDITIONS.—These are of a very miscellaneous nature.

CODE CORSE, ou Recueil des Édits, Déclarations, Lettres Patentes, Arrêts et Règlemens, publiés dans l'Isle de Corse depuis sa soumission à l'obéissance au Roi. Avec la Traduction en Italien. 3 vols. Paris, 1778, and 2 vols. Bastia, 1778—85. 4to. *Code Corse.*

A collection of edicts and other laws, &c. for the government of Corsica, from the time of its submission or cession to France; accompanied with a translation in Italian. The earliest of these laws is dated in June, 1768, and the latest in this copy, which appears incomplete, is of the month of December, 1785. The principal subjects of the laws are—the administration of justice; navigation laws; the creation of a court of chancery; regulations concerning the general assembly of the Corsican nation; assizes of provisions; prohibition to carry about the person stilettoes, &c.; quarantine regulations. Dupin, in the second volume of the *Profession d'Avocat*, mentions an edition of these edicts, in 9 vols. 4to., and another collection, called *Statuti civili dell' Isola di Corsica*, 8vo. Bastia, pp. 153. The compiler has not seen either the edition mentioned by Dupin, or the other collection.

PROCESSO VERBALE DELL' ASSEMBLEA GENERALE DI CORSICA, tenuta in Corte il 10, e giorni seguenti di Giugno 1794. 12mo. Corte, [q. 1794].

An account of the proceedings which took place in Corsica in 1794, on the occasion of the people framing a constitution for themselves, after they

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had separated from France, and put themselves under the protection of Great Britain. A constitution was framed, consisting of 12 titles, which was decreed by the general assembly of the Corsican people, and signed by the deputies to the national assembly. The number of the members of the parliament, and the places for which they were appointed deputies, are given.

THE CONSTITUTION.—Title 1. Of the nature of the constitution, and of the powers which constitute it; 2. Of the number of the deputies to the parliament, their election and functions; 3. Of the duration and convocation of the parliament; 4. Of the manner and freedom of debating, &c.; 5. Of the exercise of the executive power; 6. Of justice, and of the division of the tribunals; 7. Of the extraordinary tribunal; 8. Of the liberty of individuals and the press; 9. Of the flag and navigation of Corsica; 10. Of the national religion; 11. Of the crown and the succession to it; 12 Of the acceptance of the crown, and of the constitution of the kingdom of Corsica.

Collection of the *Coutumes* or Customary Laws.

NOUVEAU COUTUMIER GÉNÉRAL, ou Corps des Coutumes Générales et Particulières de France, et des Provinces connues sous le nom des Gaules; exactement vérifiées sur les originaux conservez au greffe du Parlement de Paris, et des autres Cours du Royaume. Avec les Notes de MM. Toussaint Chauvelin, Julien Brodeau, et Jean-Marie Ricard, Avocats au Parlement. Jointes aux Annotations de MM. Charles du Moulin, François Ragueau, et Gabriel Michel de la Rochemaillet. Mis en ordre, et accompagné de sommaires en marge des articles, d'interprétation des Dictions obscures employées dans les Textes, de Listes alphabétiques des Lieux régis par chaque Coutume, et enrichi de nouvelles notes tirées des principales observations des commentateurs; et des jugemens qui ont éclairci, interprété, ou corrigé quelques points et articles de Coutumes. Par M. Charles A. Bourdot de Richebourg, Avocat au Parlement. 4 Vols. fol. Paris, 1724.

A collection of the customary laws of France called *coutumes*. After Charles VII. had succeeded in driving the English out of France, he turned his attention to the reformation of judicial matters; and for that purpose issued an ordinance, in 1453, dated from Montils-les-Tours, the 125th article of which directed the various *coutumes*, usages and styles to be written in books, and to be submitted to the king for the purpose of being examined by the great council or the parliament, and to be afterwards decreed and confirmed by the king. These *coutumes*, &c., thus decreed and confirmed, were to be observed as law. It is supposed that the design of this article was, that out of all the several *coutumes*, &c. there should be formed one general law for the whole kingdom. This design, however, never took effect. Only one *coutume* appears to have been digested or reformed in the reign

of Charles VII., which was that of Burgundy, in 1459. Few other of the customary laws were digested or reformed by his two immediate successors; and they were not all finished till towards the middle of the seventeenth century. Certain formalities were used on the occasion of the digesting or new-modelling of these customary laws. The accounts of the proceedings which took place on such occasions (*procès-verbaux*) will be found at the end of the various *coutumes* in this collection. The first collection of these laws was printed in 1517; the present collection is the most comprehensive, but it is not complete. A list of such of the *coutumes* as are omitted in this collection will be found in the 4th volume (p. 443) of Le Long's *Bibliothèque Historique de la France*, 2nd ed. 5 vols. fol. Paris, 1768-78. At the end of each *coutume* is a list of such places as are governed by it. Many of these customary laws concern cities and countries not belonging to France, as Brussels, &c.; and were granted by foreign princes, as the kings of Spain, &c. There are commentaries on many of the *coutumes*, which were in great use previously to the introduction of the modern legislation of France. A list of these commentaries, and also of the best editions of the customary laws, when printed separately, will be found in the 2nd volume of Camus's *Profession d'Avocat*, ed. 1832, pp. 225—288. The *coutumes* are generally divided into titles or rubrics, chapters or parts, and articles or laws; they are nearly all in modern French, and a few are in Latin; there is an alphabetical list of them in each volume. These four volumes have double title pages and are often bound in eight volumes.

COLLECTIONS OF LAWS, &c.

As the ancient customary laws of Normandy are still the main laws which govern Guernsey, Jersey, and the other Norman isles belonging to England, and the customary laws of Paris prevail in Lower Canada and in the Island of St. Lucia, it is not deemed improper to notice them here.

Customs of Normandy.

LE GRAND COUSTUMIER DU PAYS ET DUCHÉ DE NORMENDIE, &c. Fol. Rouen, 1539.

The ancient *coutumes* of Normandy, with a commentary, and manuscript notes. To these laws are added, an opinion by Gulielmus Rubigineus, intitled *De Confiscationibus Consilium*; the privileges of booksellers, &c.; an *Arbor Consanguinitatis*, and an *Arbor Affinitatis*; the same customary laws in Latin, in 128 chapters; the Norman charter; ordinances of the years 1507 and 1517, &c.; the *Jugemens de la Mer*; and the style of the proceedings in the courts, &c. There are two prologues to the *coutumes*, and several indices; the language of this edition is of the sixteenth century. The *Grand Coustumier* is contained in 125 chapters, which are divided into paragraphs.

Chapter 1. Of law; 2. Of jurisdiction; 3. Of justice; 4. Of the justiciary; 5. Of the sheriff or viscount; 6. Of the execution of justice; 7. Of the taking of pledges in replevin; 8. Of *banon et defens* (lands in common use, and lands prohibited to be used in common); 9. Of judgment; 10. Of the duke's seneschal; 11. Of custom; 12. Of the duke; 13. Of allegiance; 14. Of fealty; 15. Of money-age [fees not to change the money current in Normandy]; 16. Of

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measures; 17. Of wrecks; 18. Of treasure trove; 19. Of waifs, (*choses gaynes*); 20. Of usurers; 21. Of suicides; 22. Of mortgages and purchases; 23. Of forfeitures; 24. Of assize; 25. Of escheat; 26. Of the division or partition of inheritances; 27. Of hindrances to successions; 28. Of tenures; 29. Of tenure by homage; 30. Of tenure by kindred (*par parage*); 31. Of burgage tenure; 32. Of tenure by frankalmoigne; 33. Of wardships; 34. Of relief; 35. Of aids of chivalry; three kinds of aids—one to make the lord's son a knight, the second to marry his daughter, and the third to ransom the lord from captivity; 36. Of gifts made by fathers to their children; 37. Of delays; 38. Of defaults; 39. Of essoins; 40. Of delays (*langueur*); 41. Of child-birth; 42. Of widowhood; 43. Of non-age; 44. Of the host or array; 45. Of the privileges of the cross; 46. Of excuses or essoins in respect of the judges; 47. Of essoins on account of the snow; 48. Of essoins on account of being in prison; 49. The same, on account of the time being insufficient; 50. Of the vouching of warranty; 51. Of wrongs; 52. Of force or violence; 53. Of the courts; 54. Of the *clameur de haro*, &c.; 55. Of the assizes; 56. Of the court of exchequer; 57, 58. Of plaints and the plaintiff; 59. Of him against whom the plaint is made, or the defendant; 60. Of sureties; 61. Of summonses; 62. Of witnesses; 63. Of plaintiffs and defendants; 64. Of *contours* (advocates); 65. Of attornies; 66. Of inquests, &c.; 67. Of disputes, suits, &c.; 68. Of appeals of murder; 69. Of jurors (*jureurs*); 70. Of murder and homicide; 71. Of robbery; 72. Of truce-breaking, of appeals or plaints, charges of trucebreaking, &c.; 73. Of high treason; 74. Of appeals of mayhem; 75. Of charges of assault; 76. Of appeals of truce-breaking; 77. Of suits instituted or defended by women; 78. Of women and orphans; 79. Of madmen; 80. Of harbourers of malefactors, &c.; 81. Of law-holidays; 82. Of persons condemned, and fugitives taking to sanctuary; 83. Of clergymen; 84. Of lords and their vassals; 85. Of *simple* personal actions; 86. Of actions for slander; 87. Of actions for possession (of moveable property, &c.); 88. Of actions for debt; 89. Of debtors; 90. Of actions on covenant; 91. Of actions for the possession of land, &c.; 92. Of actions concerning fiefs; 93. Of writs of novel disseisin; 94. Of pilgrims, merchants, &c.; 95. Of the view or inquisition; 96. Of default by the plaintiff; 97. Of a wife disseised in the absence of her husband; 98. Of the writ of *mort d'auncestre*; 99. Of the warrant or writ of kinship to the ancestor; 100. Of the warrant or writ of *marriage encombré*; 101. Of the writ of dower; 102. Of the record of the king's court; 103. Of the record of the exchequer; 104—106. Of the record of assize, of battle and of view; 107. Of record of pannage; 108. Of him who demands the record; 109. Of church patronage; 110. Of the charter of King Philip; 111. Of the writ of fief and of mortgage; 112. Of the writ of fief and lease; 113. Of the writ of *établie*; 114. Of the writ of *sourdemande*; 115. Of the writ of lay fees and alms; 116. Of actions for fiefs or fees sold; 117. Of inquests as

to heirship, &c. 118. Of inquests of dower; 119. Of widowers; 120. Of inquests as to heirship, warranty, &c.; 121. Of law by record; 122. Of law *prouvable;* 123. Of deraigning; 124. Of law *apparissant;* 125. Of prescription.

The *Grand Coustumier* is generally supposed to have been compiled by Pierre de Fontaines or Defontaines, some short time before the year 1270; but Count Beugnot, in the introduction to his edition of the *Assises de Jérusalem*, says that it was composed about the year 1180. The customary laws of Normandy were reformed towards the close of the sixteenth century. The best commentaries on these customary laws are by Coquille and Basnage, which will be found in their works noticed in this part of the French division of the Catalogue.

LE COUSTUMIER DU PAYS ET DUCHÉ DE NORMENDIE, &c. 12mo. Rouen, 1552.

Another edition of the *Grand Coustumier* of Normandy.

Decisions of the Exchequer of Normandy.

ÉTABLISSEMENTS ET COUTUMES, ASSISES ET ARRÊTS DE L'ECHIQUIER DE NORMANDIE, AU 13ᵉ SIÈCLE (1207 à 1245); d'après le Manuscript Français F. 2 de la Bibliothèque de Sainte-Geneviève. Par M. A. J. Marnier, Avocat et Bibliothécaire de l'Ordre des Avocats à la Cour Royale de Paris. 8vo. Paris, 1839.

Some ancient customary laws and assizes of Normandy, and the decisions of the court of the Exchequer of Normandy, from the year 1207 to 1245; by Marnier, an advocate of the *Cour Royale* at Paris. The ancient customs are put first, and are chiefly in old French, the others are in Latin. The number of titles or articles is 112. The editor thinks that these customary laws were compiled between the times of Rollo, and John king of England. The assizes were held in 1234—37, in various places: the subjects of the decisions are miscellaneous. The decisions of the exchequer date from the year 1207 to 1246, and are on various points of law. This edition contains an introduction, notes, some few additions, a glossary and an index. Marnier states, in a note at the end, that he will publish some decisions of the exchequer of Normandy of the years 1296, &c., if encouraged. In 1840 he published at Paris, in 8vo., an ancient inedited *Coutumier* of Picardy, of the thirteenth century; and in 1843, a new edition of Pierre de Fontaine's *Conseil.*

Ancient Laws of France as preserved in Littleton.

ANCIENNES LOIX DES FRANÇOIS, CONSERVÉES DANS LES COUTUMES ANGLOISES, RECUEILLIES PAR LITTLETON; avec des Observations historiques et critiques, où l'on fait voir que les Coutumes et les Usages suivis anciennement en Normandie, sont les mêmes que ceux que étoient en vigueur dans toute la

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France sous les deux premières Races de nos Rois, &c. Par M. David Houard, Avocat au Parlement de Paris, et Conseiller-Echevin de la ville de Dieppe. 2 vols. 4to. Rouen, 1766.

The ancient laws of France, as preserved in the common law or usages of England, collected in Littleton's Tenures. The text of Littleton is accompanied with a translation into modern French, and numerous remarks. David Houard was born at Dieppe in 1725, was admitted as an advocate at Paris in 1745, and died in 1802.

Treatises on the Anglo-Norman Customs.

TRAITÉS SUR LES COUTUMES ANGLO-NORMANDES, QUI ONT ÉTÉ PUBLIÉES EN ANGLETERRE, DEPUIS LE 11e JUSQU'AU 14e SIÈCLE; avec des Remarques sur les principaux points de l'Histoire et de la Jurisprudence Françoises anterieures aux Établissemens de Saint-Louis. Par M. Houard, Avocat au Parlement, etc. 4 vols. 4to. Paris, 1776.

A collection of treatises on law, by English and Scottish authors, previously to the fourteenth century, with notes.

Vol. I. contains a preface and a dissertation; extracts from Domesday Book; the laws of Henry I., ninety-four in number; and Glanville's Treatise on the Laws of England.

Vol. II. includes the laws, &c. of Scotland, namely, the laws of Malcolm II.; the *Regiam Majestatem*, the Barons' Laws or *Quoniam Attachiamenta*, the Burrow Laws, &c., Statutes of the Guild; King William's Statutes; the Forest Laws; the Laws of Kings Alexander, Robert I., David II., of the Parliament, and of Robert II. and Robert III.

Vol. III. contains *Fleta*, being a Commentary or Treatise on the Laws of England.

Vol. IV. contains Britton's Treatise on the Pleas of the Crown, and Horne's Myrror of Justice.

Dictionary and Digest of the Customs of Normandy.

DICTIONNAIRE ANALYTIQUE, HISTORIQUE, ÉTYMOLOGIQUE, CRITIQUE ET INTERPRÉTATIF DE LA COUTUME DE NORMANDIE, &c. Par M. Houard, Avocat en Parlement, etc. 4 vols. 4to. Rouen, 1781.

This is a dictionary and digest of the *Coutumier*, and also a biographical account of the lawyers, of Normandy.

In the first volume there is a chronology of the sovereigns of Normandy, and an historical preface; and in the fourth volume there is a very old *coutumier* of Normandy in verse. The date of this literary curiosity is of the thirteenth century; the supposed author is Richard Dourbault. It has 148 chapters and a conclusion; the number of verses is about 11,500, of eight feet each.

LES COUTUMES GÉNÉRALES DE LA PRÉVOSTÉ ET VICOMTÉ DE PARIS, etc. [From the *Nouveau Coutumier Général*, by Richebourg, in 4 vols. fol. Paris, 1724. Vol. III. Part 1.]

Ancient customs of Paris.

The ancient customary laws of Paris; they were first compiled or digested in this order in 1510, and are divided into 17 chapters, which are subdivided into 199 articles. The subjects of the chapters are as follows:—

Chapter 1. Of fiefs; 2. Of *censives* and seignorial rights; 3. Of seisin and of novel disseisin (*nouvelleté*); 4. Of prescription; 5. Of personal actions and mortgages; 6. Of the reports of jurats (*jurés*); 7. Of wills and their execution, and of alienations and gifts; 8. Of *garde noble* (wardship affecting nobles); 9. Of *garde bourgeoise* (wardship affecting citizens, &c.); 10. Of community of property between husband and wife; 11. Of successions or inheritances; 12. Of dowery; 13. Of collateral succession; 14. Of mutual donations by husband and wife; 15. Of decrees, executions and distresses; 16. Of the right of redemption (*retraict lignager*); 17. Of *criées* or sales by public auction.

These 17 chapters end at article 190; the other 9 articles relate to *censives*, innkeepers, aliens and other matters.

Later customs of Paris.

COUTUMES DE LA PRÉVOSTÉ ET VICOMTÉ DE PARIS, etc. [From the same volume of the *Nouveau Coutumier Général*, p. 29.]

The new or reformed customary laws of Paris; they were compiled &c. in 1580. These *coutumes* form the main body of the laws by which the province of Lower Canada and the island of St. Lucia are governed; the other laws affecting them are the ordinances of the French kings, &c. down to the time of the conquest of those countries, with such modifications as have been made in these laws, &c. since they have formed part of the English dominions. They are divided into 16 titles, which are subdivided into 362 articles; and there are added to them 21 articles on *La haute justice, la moyenne justice, et la basse justice.*

Title 1. Of fiefs; 2. Of *censives*, &c. and seignorial rights; 3. Of property both moveable and immoveable; 4. Of actions concerning seisin, novel disseisin and *simple saisine*; 5. Of personal actions and mortgages; 6. Of prescription; 7. Of the right of redemption of lands sold (*retrait lignager*); 8. Of decrees, executions and distresses; 9. Of servitudes and reports of jurats (*jurez*); 10. Of community of property between husband and wife; 11. Of dowery; 12. Of *garde noble* and *garde bourgeoise*; 13. Of gifts or donations and mutual gifts; 14. Of wills and their execution; 15. Of successions direct and collateral; 16. Of seizures of lands by decrees of courts and the sale of them by public auction.

A collection (by C. de Ferrière) of all the commentaries on these customary laws (the best of which are those by Du Moulin, Chopin, Cha-

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Assizes of Jerusalem.

ASSIZES ET BONS USAGES DU ROYAUME DE JERUSALEM, tirés d'un Manuscrit de la Bibliothèque Vaticane, par Messire Jean d'Ibelin, Comte de Japhe et d'Ascalon, Seigneur de Rames et de Baruth, &c. Par Gaspard Thaumas de la Thaumassière, écuyer, Seigneur de Puy-Ferrand, Bailly du Marquisat de Chasteau-neuf-sur-Cher, Avocat en Parlement. Fol. Bourges and Paris, 1690.

This is the first French edition of the laws known by the name of the *Assizes de Jerusalem.* These laws were compiled by order of Godfrey of Bouillon, for the use of the Christian kingdom of Jerusalem, established immediately after the taking of Jerusalem by the first crusaders, in 1099, and of which he was elected the first king. They are apparently based chiefly on the customary laws of France; and were called *assizes,* because they were enacted in the sittings or assemblies of the chief men of the kingdom: thus the different constitutions or decrees of the various kings were denominated *assizes,* as the *assizes* of King Baldwin, the *assizes* of King Aumary, &c. The Assizes were also known by the name of the Letters or Charters of the Sepulchre (*Lettres du Sépulchre*), because they were kept in a chest in the church of the Holy Sepulchre at Jerusalem; and great ceremony was used when they were produced for the purpose of evidence, or when any dispute arose respecting any of the articles contained in them. On such occasions they were taken out of the chest, in the presence of the king or the person appointed to act for him, the patriarch, or, in his absence, of the prior of the Holy Sepulchre, two canons, and the *vicomte.* These laws were amended by the succeeding kings, to suit the exigencies of the times, and were first collected by Jean d'Ibelin, Count of Jaffa and Ascalon, Lord of Bayrouth and Rama, about the middle of the thirteenth century. They were again revised and amended about the year 1369; and the text of these laws was deposited in the archives of the church of Nicosia, in a chest sealed with four seals. When Guy de Lusignan obtained the sovereignty of the island of Cyprus, in 1192, these laws were introduced there; and when the Republic of Venice became possessed of the island in 1489, the Assizes were found to be in full force. The old French text had, however, then become so hard to understand, that

it was found necessary to have a translation of it made into Greek; and about the same time a translation was made into Italian. Two French texts were used for this latter translation, one of which probably remained in the island, and the other was deposited in Venice, in the archives of the Council of Ten. The present edition, which was published by La Thaumassière, was taken from an incomplete copy found in the Vatican Library. A new edition of the *Assizes* having been contemplated in the year 1788, the French government applied to the republic of Venice to be furnished with a copy of the manuscript remaining in their possession. In compliance with this application, Signor Morelli was commissioned to make a copy of the manuscript: this copy was supplied, and was lost sight of during the troubles of the times, but was fortunately brought to light again in the year 1829. It is described by Canciani, in the fifth volume of his *Barbarorum Leges*, page 111, to be rather a picture of the original, than a copy, so perfect is the resemblance in every respect. The vicissitudes which the original as well as the copy have suffered, are detailed in the second volume of the *Profession d'Avocat*, ed. Paris, 1832. These laws were first printed in Italian, in 1535: in that edition they are divided into two parts, the one called the *Alta Corte*, and the other the *Bassa Corte*. Previously to the late reprints of these singular laws, copies of them had become exceedingly scarce, as may be seen by the following remark:—Mr. Cooper, in his work intitled "Notes respecting Registration and the extrinsic Formalities of Conveyances," Part 1, 8vo. London, 1831, in a note (page 8) observes, "It "is a rare book. Mr. Dulau the bookseller had never seen a copy until "I showed him that in my possession. I am glad to learn from Germany "that MM. Kausler and Bluntzchli, of Stuttgard, have announced for "publication a new and complete edition of the Assizes. The whole of "that remarkable work has never yet been printed." Since the above remark was made, Beugnot's fine edition has been published, and part of Kausler's.

The present edition of the *Assizes* contains a dedication to Colbert, a short notice or introduction, and an ancient preface, stating the time of the compilation of these laws, &c., an index of chapters, &c., genealogies and valuable notes. The chapters are 321 in number; the latter seven of which concern the services and aids to be rendered to the king; and there are thirty chapters chiefly on the genealogy of the kings of Jerusalem. There is no division in this edition of the Assizes into "High and Low Courts," as in the Italian versions. The subjects treated on in the chapters are as follows:—

Chapters 1—81 treat of the proceedings in the courts; 82—112. Of appeals, challenges and duels; 113—144. Of different suits, &c.; 145—274. Of fiefs, wardships, dower, &c.; 275—308. Of villains, the oaths of lords, of the king and others; of the offices of constable, marshal, &c. and miscellaneous matters; 309—313. Of the laws concerning birds [hawks, &c.] and dogs that are lost; runaways, slaves and villains, cattle-lifters; 314. An ordinance; 315—323. Of archbishops and bishops; 324. Of the lords' courts, &c.; 325—331. Of the aids and services to be rendered to the king.

COLLECTIONS OF LAWS, &c.

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The following editions of these laws have been published within these few years:—1. An edition by Count Beugnot, printed at Paris, in 2 vols. fol., 1841, with very great augmentations, which forms part of the *Recueil des Historiens des Croisades*, published by order of the French government. 2. An edition by Victor Foucher (who has published French translations of most of the laws of modern Europe), in 2 vols. 8vo. 1839—1841. 3. An edition by Kausler and Bluntzchli, in 3 vols. 4to. Stuttgart, 1839.

Établissemens de S. Louis.

Les Établissemens selon l'Usage de Paris et d'Orléans et de Court de Baronnie. [From the 2nd volume of the *Recueil Général des Anciennes Lois Françaises*, p. 361.]

This is the celebrated collection known by the name of the *Établissemens de St. Louis;* it was compiled shortly before his last expedition or crusade, which took place in 1270. By some authors this collection is looked on as a code of laws which was intended to be observed in the whole kingdom; and such intention is manifested in the preface or introduction to the *Établissemens*. The opinion, however, of the generality of French writers on the subject is, that this code was framed only for the *prévôté* of Paris, the *bailliages* of Orleans, Touraine and Anjou. Montesquieu states that the *Établissemens* soon fell into disuse. For further information on this subject, see the *Notices historiques*, &c. at the end of the second volume of the *Profession d'Avocat*, edit. Paris, 1832, and the 37th, 38th and 39th chapters of the 28th book of Montesquieu's *Esprit des Lois*.

The *Établissemens* were first printed in Du Cange's edition of Joinville's *Histoire de S. Louis*, at Paris, in fol. 1668; they are divided into 2 books, which are subdivided into chapters; the total number of the chapters is 210, the 1st book containing 168, and the other 42. The original text is accompanied by a translation into modern French. Many references are made in the text to the Digest, the Code and the Decretals.

Book I. The chief subjects treated on in this book are as follows:—of the *prévôt* and his court; duels forbidden, and proofs or evidence substituted for them; of appeals; of false witnesses; of children's portions, &c., dower, marriage gifts, or endowment made at the church door, and of the husband's right to it for his life, if he has a child born alive, &c. [this is somewhat similar to the tenancy by the curtesy of England]; what portions, &c. are to be given to children; of successions; of thefts, &c., murder, homicide; of the *vavassor's* administration of justice; of aids, homage and seigneurial rights; how fiefs are lost; of actions for debt, &c.; of wardship and majority; of setting aside judgments, &c.; of trials of the clergy, &c. for crimes; of the punishment of infidels, heretics and usurers; of suicides; of treasure-trove; of bastards; of partitions of land; of gifts by the king, gifts between husband and wife; of essoins; of damages by cattle, &c.; of property devised or bequeathed, &c. to the church; the evidence of Jews not admissible; of the division of the father's property among his children; of cus-

tomary dower; several regulations concerning false measures, &c.; of the right of redemption or repurchase; of the payment of rents, &c.; of duels, &c. between brothers.

Book II. The chief subjects treated on in this book are the following:—of novel disseisin; of attornies; of accusations of murder, robbery, &c.; how the advocate ought to conduct himself; of judgments and appeals; of fealty and homage; of causes within the king's cognizance; of debts due to the king; of injuries, &c.; of foreigners, &c. and bastards; of claiming a man as one's serf; of the king's men being summoned in other than the king's courts; of enfranchising serfs.

Customary laws of Beauvoisis.

COUSTUMES DE BEAUVOISIS, par Messire Philippes de Beaumanoir, Bailly de Clermont en Beauvoisis, &c. Et autres anciennes Coutumes. Le tout tiré des Manuscrits. Avec des Notes et Observations, et un Glossaire pour l'intelligence des Termes de nos anciens Autheurs. Par Gaspard Thaumas de la Thaumassière, ecuyer, &c., Avocat en Parlement. Fol. Bourges and Paris. 1690.

The customary laws of Beauvoisis, compiled by Beaumanoir about the year 1283, together with other ancient *coutumes*. Beaumanoir was bailiff and *conseiller* to Robert, Count of Clermont, son of Louis IX., and was also bailiff of Senly in 1295, and a knight.

This volume contains:—1. The *coutumes;* they are comprised in 70 chapters, and treat of proceedings in court, wills, dowers, degrees of consanguinity, partnerships, parceners, &c.; of moveable and immoveable property; roads, weights and measures, larcenies, disseisins, obligations, leases, hirings, loans, &c. proofs, false witnesses, pledges, servitudes, franchises, fiefs or feuds, creditors, respites and delays; of war, and numerous miscellaneous matters; a prologue, an index and notes. 2. The privileges and customary laws of Riom, in Auvergne, granted by Alphonse Count of Poitou (brother of St. Louis) in 1270: thirty-eight articles in Latin and Romance. 3. The ancient customs, &c. of Orleans, reduced to writing in 1270: these consist of charters, assizes of bread, meat, &c. 4. A glossary to the Assizes of Jerusalem, and the customary laws, &c.

The copy is bound up with Thaumassière's before-mentioned edition of the Assizes of Jerusalem. A new edition of these customary laws was published by the *Société de l'Histoire de France*, in 2 vols. 8vo. Paris, 1842, edited by Count Beugnot.

2. ANCIENT BOOKS OF PRACTICE, &c. BEFORE 1500.

Conseil de P. de Fontaines.

Le Conseil que Pierre de Fontaines donna a son amy, ou Traité de l'ancienne Jurisprudence des François. [From Du Cange's edition of Joinville's *Histoire de S. Louis*, part 3, folio. Paris, 1668.]

This is supposed to be the oldest printed treatise on French law, and was composed by De Fontaines, a judge or counsellor in the parliament of Paris, in the time of Louis IX.; it was probably composed about the year 1260, and, as some authors say, by the direction of Louis IX., for the instruction of his son and successor. According to Klimrath, in the 2nd volume of his *Travaux sur l'Histoire du Droit Français*, this *Conseil* forms one of the four books of a work compiled by De Fontaines and others, intitled *Li livre la Royne;* the 3rd book of which work contains the *Grand Coustumier of Normandy;* the 2nd book is a translation of the 3rd and part of the 4th books of the Institutes of Justinian; and the 4th is grounded on the 4th book of the same Institutes, with some of the titles of the Digest inserted. Klimrath adds, that the *Conseil* contains the customs and usages of the Vermandois, and that Robert the Norman probably compiled the *Grand Coustumier* of Normandy. Charondas le Caron states that "Pierre "Fontaines wrote a work intitled *Li livres la reigne et enseigne droict a "faire et a tenir iustice tres-especiaument;* and that he saw another book "which was composed in the time of the same king (Louis IX.) for his "son Philip, and that the authors of it were Messire Pierre, and Messire "Clement de Tours, and Messire Robert le Norman, and Messire Hüe de "Paris." The running title to this treatise, in Du Cange's copy, is *Le Conseil de Pierre de Fontaines.* The work is divided into 35 chapters, which are subdivided into sections or paragraphs.

Chapter 1 is a prologue, in which the author, addressing himself to some person whose name does not transpire, and who was probably some great personage, though clearly not the king, states that he had been requested by him to write a treatise *Selonc les usages et les Coustumes du pais, et de toutes Cours laies,* for the benefit of his son, who was to be his heir; 2. The title to this chapter is "here begins "the counsel of Pierre de Fontaines, which he gives to his friend, "and to all others;" 3. Treats of summonses, &c. to freemen and to villeins; 4. Of adjournments and essoins; 5. Of the oath to be taken in respect of essoins; 6. Of not appearing when summoned, &c.; 7—9. Of giving bail or security, &c.; 10. Of the fines to be paid by freemen and villeins for not attending to summonses; 11. Of advocates; 12. Of judges; 13. In what cases one may have a *jor de conseill,* and when not; 14. Of minors that have sold land and other things. 15. The title of this chapter is *chi parolle pour gent kemune de toutes manieres* [it is very miscellaneous]; 16. Of frauds, &c.; 17. Of the absent (*despaisies*), and in what cases they may be reinstated, and when not; 18. Of arbitrations, &c.; 19. Of keepers of taverns and inns, who have things left in their custody, &c.;

20. Of putting things into another's custody or power, to avoid being sued, &c.; 21. Of judgments; 22. Of appeals; 23. No judge to let causes be tried by another in his place, who is not within his jurisdiction; 24. [This chapter, intitled *de donner sa demande*, is left out]; 25. *Coment plais est entames;* 26. Of demanding, or bringing actions for, more than is due; 27. Of holydays and the times when no causes are to be tried; 28. Of the power of the judge, &c.; 29. In what places parties are to sue or be sued; 30. In what cases the king tries the causes of orphans, widows and other weak or unprotected persons; 31. Where persons accused of crimes are to be tried; 32. Where causes relating to seizin, debt, &c. are to be tried; 33. [This chapter, intitled *des testamens qui ne sunt mie a droit fais*, is left out]; 34. Of the donations or gifts that fathers may make to their children; 35. Of possession obtained *boná fide* or *malá fide.*

A new edition of this work was published by Marnier, in 8vo. Paris, 1847.

Aurea Practica Jacobi.

Subtilissimi et acutissimi Legum interpretis Domini Petri Jacobi utriusque juris meritissimi professoris aurea et famosissima Practica: utilibus et necessariis Libellis ordine congruo collocatis: necnon additionibus de novo insertis decorata: felici incipit exordio. 4to. Lyons, 1519.

A book of practical forms, composed in 1311, by Pierre Jacobi, of Aurillac, in the ancient province of Auvergne, "for the instruction," as he says, "of advocates and scholars." Petrus Jacobi was born probably about the middle of the thirteenth century; he was a doctor and professor of laws at Montpellier. The time of his death is not mentioned by Moreri. The whole forms of actions are given, which consist of the statement of the case, the averments or *positiones* of the plaintiff, followed by those of the defendant, and then the judgment is given, and in many cases several forms of judgments; but at times the judgment is altogether omitted. There is an index of the rubrics or titles, and a repertory or digested index of subjects. This work is bound up with Gui Pape's *Consilia.*

Stylus Parliamenti.

Stylus Supremæ Curiæ Parliamenti Parisiensis atque Tholosani: cum Arrestis quam plurimis, et Regiis Ordinationibus. Scholiis præterea clarissimi viri domini Stephani Aufrerii præsidis Tholosani. Parliamenti etiam Parisiensis Decisiones, etc. Quibus adjunximus duos Tractatus, unum de Juribus et Privilegiis specialibus Christianissimi Regis Francorum, alterum de auctoritate et præeminentiâ Magni Consilii, et Parliamentorum, etc. Fol. Paris, 1530.

The Style of the parliaments of Paris and Toulouse, with some of their decisions, and some ordinances of the kings; the glosses of Étienne Aufreri,

ANCIENT BOOKS OF PRACTICE, &c.

president *aux enquêtes* at Toulouse; the decisions of the parliament of Paris; two treatises, the one on the rights and privileges of the kings of France, and the other on the authority and pre-eminence of the great council, and of the parliaments.

This style is supposed to have been originally compiled, about 1330, by Guillaume Du Breuil (or, as his name is sometimes spelt, Dubreuil), an advocate in the parliament of Paris. Glosses were made to these by Aufreri. The contents of the volume are as follows:—

1. THE STYLE OF THE PARLIAMENTS. This contains 46 titles, which treat of advocates; summonses; appearances; contumacy, &c.; *dilationes* or time allowed; exceptions; appeals; the *commissarii* and their power; fiefs; the causes of the peers of France; minors; bail or security [at the end of this article are the words *Explicit stylus Curiæ Parlamenti*, and Aufreri's name is no longer put to the glosses]; *instructiones abbreviatæ ad habendam notitiam Styli Curiæ Parlamenti, et de modo procedendi in eadem*; the jurisdiction of the parliament; the regalia; the manner of prosecuting appeals, &c.—2. *De modo conficiendi processus commissariorum.* This consists of forms, with explanatory remarks. The first form is dated in 1497.—3. ON THE FORMS OF DECISIONS. This is a treatise on the subject.—4. DECISIONS MADE IN THE PARLIAMENTS OF PARIS AND TOULOUSE. The earliest is dated in 1384, and the last in 1493. The decrees are 2781 in number, and have glosses to each.—5. THE STYLE OF THE REQUESTS OF THE PARLIAMENT OF PARIS. The number of titles or articles in this style is 28, in the first of which mention is made of the letters (for privileged persons) called *Committimus*. This style is followed by the Style of the Parliament of Toulouse, in 11 short paragraphs.—6. THE QUESTIONS OF JEAN GALLI OR GALLE, the title to which is *Quæstiones Johannis Galli per arresta Parliamenti decisæ*. These are cases, with the decisions on them, collected by Galli, king's advocate in the parliament of Paris. At the end of the 164th question are the words "*hic finiunt.*" In question 6, Galli states that he heard that case decided in 1393. The earliest of these cases or questions appear to be about 1374, and the latest about 1397: the dates of the decisions are not always given.—7. DECISIONS, *Judicia* and *Consilia* (including three *arresta singularia*), beginning in 1374 and ending in 1511.—8. THE ORDINANCES OF THE KINGS. These are arranged under headings; the earliest of them is dated in 1228, and the latest in 1485. At the end of the ordinances are the words "*Finiunt Stylus Curiæ Parlamenti cum Ordinationibus Regiis feliciter.*"—9. A TREATISE ON THE RIGHTS AND PRIVILEGES OF THE KINGS OF FRANCE. The title expresses it to be edited "by Jean Ferrault, a doctor of laws." The number of privileges is 20, each of which is followed by a commentary; the 20th says "that no female nor "male descending from a female can succeed to the crown of "France."—10. A TREATISE ON THE AUTHORITY OF THE GRAND COUNCIL AND PARLIAMENTS OF FRANCE, divided into 21 headings. The colophon is as follows: "*Finem accepit hoc preclarum opus*

ordinis judiciarii sacri palatii quem Stilum vulgo vocant, &c." There are six or seven indices.

A copy of this *Stylus*, but differently arranged, will be found in the 2nd volume of Du Moulin's works, in 5 vols. fol. Paris, 1681.

Somnium Viridarii de Jurisdictione Regiâ et Sacerdotali. [From the 1st volume of Goldast's *Monarchia S. Romani Imperii*, &c. Folio. Hanover, 1612.]

Somnium Viridarii.

A treatise on the power of kings, and of the clergy (that is, of the pope); it is improperly attributed by Goldast to Giovanni-Filoteo Achillini, a poet of Bologna, who wrote a poem called the *Viridario*, printed at Bologna in 1515. The author of this poem died in 1538. The title to the present work, as given by Goldast, is *Philothei Achillini, consiliarii Regii, Somnium Viridarii, de Jurisdictione Regiâ et Sacerdotali.*

Raoul de Presle (in Latin called Rudolphus Prællæus) is the supposed author of this treatise: he was master of the requests both to Charles V. and Charles VI., and is supposed to have compiled this work about the year 1374. He afterwards, at the request of Charles V., made an abridgment of the work in French, which is to be found in the same volume of Goldast's Collection, under the title *Rudolphi Prællæi Consiliarii Regii, et Magistri Libellorum supplicum in Curiâ Parisiensi, Tractatus de Potestate Pontificali, et Imperiali seu Regiâ. Au commendement de treshault et tresexcellent Prince Charles par la grace de Dieu le Quint Roy de France de ce nom, Maistre Raoul de Pruelles son petit serviteur, Conseiller et Maistre de Requestes de son Hostel translata ceste petite euvre.* This abridgment is divided into two parts (though not formally so), the first of which contains the arguments for the king of France, which are styled *raisons* and *articles;* the reasons are 26 in number, and the articles 5. The second part contains the arguments for the pope, which are also styled *raisons;* the number of them being 20, and to each of them a confutation is subjoined. A full and very interesting account of De Presle and his works will be found in the 13th volume of *Mémoires de l'Académie des Inscriptions et Belles Lettres.* The author of the present treatise (the *Somnium Viridarii*) feigns to have had a dream while sleeping in a pleasant garden or meadow (*viridarium*); in which dream he fancies that he overheard two persons disputing on the kingly and papal powers,—the one, a knight, contending for the authority of kings,—and the other, a clergyman, upholding the power of the popes. This work appears to be only an enlargement (with numberless digressions) of the treatise by William Ockham, an English monk (of the order of St. Francis), who flourished in the early part of the fourteenth century. Ockham's tract, which was written to silence the pretensions of the papal court to the exercise of temporal power over princes, is in the same volume of Goldast's *Monarchia S. Romani Imperii*, and is there stated to have been composed in 1305. The title of it, as given by Goldast, is "*M. Guilhelmi de Ockam Angli, Doctoris Parisiensis ex ordine Minorum Disputatio super Potestate Prælatis Ecclesiæ, atque Principibus terrarum commissâ, temporibus Bonifacii VIII. Pontificis*

ANCIENT BOOKS OF PRACTICE, &c.

Romani scripta, sub formâ dialogi inter Clericum et Militem." In both Ockham's treatise and De Presle's, the disputants enter into the dialogue at once. In Ockham's work there is no other division throughout than *M.* for *Miles* and *C.* for *Clericus*, as they severally speak; but in De Presle's, each part of the dialogue begins with a fresh chapter, the number of which is 525: at the end of the dialogue the sleeper awakes, and moralizes on the dream. Ockham's treatise agrees nearly verbally with De Presle's as far as chapter 34 of the latter, when the former breaks off, Goldast's copy being only a fragment. A translation of Ockham's tract was made into English, and published in London in 1540, 8vo. under the title of "A Dialogue betweene a Knyght and a Clerke, concernynge the Power Spiritual and Temporal." An analysis of this Dialogue will be found in the 1st volume (p. 167) of Savage's *Librarian*, in 3 vols. 8vo. London, 1808—9.

Grand Coutumier de France.

LE GRAND COUTUMIER DE FRANCE, &c. Par Charondas le Caron. 4to. Paris, 1598.

This book is generally known by the title of *Le grand Coutumier de Charles VI.*, because it was composed, as is generally understood, during the reign of that king, by some author whose name is not known. The present edition is not the earliest. The title to the edition noticed by Dupin (8vo. Paris, 1539) is as follows:—*Le grand Coustumier de France et instruction de practique et maniere de proceder et practiquer ès souveraines Cours de Parlement, prevoste et vicomte de Paris et autres jurisdictions du royaume de France*, &c. The work itself was probably composed before the *Somme rural* of Bouteiller, and is divided into four books, which treat of civil law generally. The contents of the books are as follows:—

Book I.—Of the officers, &c. of the parliament and the *châtelet*; of the *droits royaux*; ordinance as to the forests, waters, &c. (*eaux et forêts*); extracts of ordinances made by Philippe-le-bel, in March, 1302; ordinances made by King Jean, in December, 1355; that those who appeal from their bailiffs and afterwards give up their appeal, are to pay nine *sols parisis*; dice-playing forbidden, and cross-bows ordered to be used; of blasphemy; of the seal of the *châtelet* of Paris; of brothels; of the oaths of advocates and attornies.

Book II.—Of justice, the law, *coutumes*, usages and styles; of the division of things; of things corporeal and incorporeal; of servitude; of possession; of caution or bail; of prescription; of donations or gifts; of obligations; of lords and lordships; of the various kinds of property; of lineage; of the diversity of persons; of the execution of *lettres*; of actions concerning property; of the *différence de commission*; of the division of goods; of cases of novel disseisin; of exceptions; of mortmain; of public sales of houses and inheritances (*criées*); of seisin of *cencive*; of seisin of fiefs or fees; of fiefs or fees; of the *coutumes des fiefs*; of the prelates' oaths of fealty; of the oath of *aubaines*; of the re-purchase of fiefs; of the right of the *censiers*; of conventions or agreements; of *franc-alleu*; of the right of redemption or re-purchase (*retraicts*); what is to be done

on the day of the adjudication of the *retraicts*; of *retraicts* generally; of privileges; of ownership, &c.; of easements, &c.; of successions; of wardship; of minors, tutors and curators; *de donner provision*; of crimes, &c.; of those who may be put on their trial, &c.; of security or assurances.

Book III.—Of attornies and advocates; of the proceedings for the recovery of inheritances, &c.; of summonses, &c.; how the heirs, &c. of a deceased person are to be summoned; of the employment of attornies (this is curious); of essoins; of exceptions or pleas dilatory, &c.; of default; of extraordinary causes, &c.; of exceptions (*reproches*) according to the style of the parliament; of judgments; of trials of peers; of examiners; of appeals, &c.

Book IV.—Of judges and judge arbitrators; of causes affecting the king and the bishop; of unmarried and married clergymen; of *la haute justice, la moyenne justice*, and *la basse justice*; of *la justice foncière*; of the *seigneur foncier*; of punishments, &c. Then follow extracts from the "STYLE OF THE COURT OF THE PARLIAMENT," and the "DECISIONS" of the same court, &c.

MASUERI PRACTICA FORENSIS, &c. 8vo. Lyons, 1577. *Masueri Practica Forensis.*

This is a book of practice, compiled in Latin by Masuer, in the fifteenth century; a French translation of the work was made by Fontanon, and published at Lyons in 1576. 8vo.

The following are the titles of this work:—1. Of summonses; 2. Of time allowed, and excuses; 3. Of defaults; 4. Of attornies; 5. Of guardians; 6. Of judges and their jurisdiction; 7. Of arbitrators; 8. Of the removal of causes from one tribunal to another; 9. Of exceptions; 10, 11. Of real and possessory actions; 12. Of security; 13, 14. Of usufruct, dower and marriage; 15. Of injuries; 16. Of evidence; 17. Of witnesses and exceptions to them; 18. Of letters and other documents; 19—21. Of presumptions, oaths and confessions; 22, 23. Of prescriptions, sales and purchases; 24. Of donations and legacies; 25. Of leases, *cens* and *emphyteutic* contracts; 26. Of fiefs; 27. Of *retraict* and *contrats résolutoires*; 28. Of partnerships; 29. Of obligations and renunciations; 30. Of executions and sales by public auction; 31. Of payments and compensations; 32. Of successions and wills; 33, 34. Of judgments, costs, &c.; 35. Of appeals; 36, 37. Of torture and penalties, &c.; 38. Of taxes; 39—41. Of servitudes, alimony and privileges; 42. Of statutes and customary laws.

SOMME RURAL, ou le Grand Coustumier général de Practique Civil et Canon: composé par M. Jean Bouteiller, Conseiller du Roy en sa Cour de Parlement, &c. Par Louys Charondas le Caron, jurisconsulte Parisien, &c. Fol. Paris, 1611. *Somme Rural.*

A new edition of Bouteiller's Treatise on the Practice of the Courts of Law in the author's time, with decisions of the courts, ordinances of the kings, &c.

ANCIENT BOOKS OF PRACTICE, &c.

Jean Bouteiller, or Boutiller, a counsellor in the parliament of Paris, was born in the fourteenth century, and died in the early part of the fifteenth. There are notes, &c. by Charondas le Caron, additions to the *Somme*, three indices and a dedication. The work is divided into two books, which are subdivided into titles or chapters.

Book I. (containing 107 titles or chapters) treats of jurisdiction, defaults, plaints, attornies, and general proceedings; guardianship; exceptions; defence; obligations; criminal actions; damages by cattle; suicides; agreements to settle differences; gifts; prescription; things done by force, or through fear; usufruct; deposits; partnerships; sales and purchases; sales of inheritances; seigneurial rights, &c.; rivers and streams; inheritances; fiefs, homage, &c.; public roads; the price of corn, &c.; wards; gifts between husband and wife; emancipation; wills, codicils, and legacies; various kinds of deeds, &c.

Book II. (containing 40 titles or chapters) treats of special cases, called *droicts royaux*. The chief subjects of this book are arbitrations; the oaths of judges, advocates, &c.; clergymen, churches, tithes; marriages; usurers; excommunicated persons; the forms of proceedings at law; appeals; the treasury; merchants, &c.; public works; renunciations of husbands' property and wills; letters of licence; on asking twice for a debt; how lords should treat their subjects when they do not pay their rent; on debts and obligations; fines, &c. A copy of Bouteiller's will, which is dated on the 16th September, 1402.

Consilia, &c. Guidonis Pape.

CONSILIA SINGULARIA et quorum materia quotidie in practicâ in omnibus Curiis tàm Ecclesiasticis quàm secularibus versatur: per bonæ memoriæ quondam Dominum Guidonem Pape, legum doctorem et Parlamenti Delphinatis consiliarium, &c. 4to. Lyons, 1519.

The opinions of Gui Pape on several points of law which occur in daily practice, in the courts both ecclesiastical and civil; with the questions or cases, and sometimes the decisions of the courts.

Gui Pape, doctor of laws and a counsellor in the parliament of Dauphiny, was born about 1402, and died in 1475. The number of the opinions in this edition is 246. There is an analytical index of the subjects. Moréri states that he also composed a commentary on one of the statutes of Dauphiny, and a treatise on the *bénéfice d'inventaire*.

Arrêts d'Amour.

LES ARRÊTS D'AMOUR, par Martial de Paris (dit d'Auvergne); avec l'Amant rendu Cordelier à l'observance d'amour, accompagnés des Commentaires de Benoît de Court, &c. 2 vols. 12mo. Amsterdam, 1731.

The Decisions of the Parliament of Love, by Martial of Paris (called of Auvergne). Under this strange title the author gives real law ques-

tions and decisions, accommodated to subjects of dispute arising between lovers. The decrees are fifty-three in number; the two last are not by Martial of Paris, but by Gilles d'Aurigny. This is the best edition of the above work, which contains the Latin commentary of Benoit du Court, and a glossary by Lenglet du Fresnoy. The author was born about 1440, and died in 1508; he was an attorney in the parliament of Paris. The work is also quoted by the title of the *Arresta Amorum*, &c. The Court of the Parliament of Love was a society formed by ladies and gentlemen, to decide on matters in dispute between lovers, &c. There were several of them in various cities of France. See the *Biographie Universelle*, article *Martial d'Auvergne*, and Furetière's Dictionary, article "*Parlement d'Amour.*"

The following ancient books of practice, besides those inserted above, are noticed by Klimrath and others.

1. Guido, MS. Charondas le Caron, in his *Pandectes*, chapter 2, states that this author lived in the reign of Philip I., and that he is the earliest writer on the laws and customs of France; the author himself says in the MS. *por que nus nen prist devant moi onques ceste chose dont ie aye essamplaire.*

2. Li Livres de Justice et de Plet, MS. This work was composed in the thirteenth century, and is to be published by M. Rapetti, who has been commissioned for that purpose by the French government. It is divided into 20 books, which are subdivided into titles; a list of these will be found in Warnkœnig's *Französische Staats-und Rechtsgeschichte*, a work noticed in the modern part of this division of the Catalogue.

3. Li Estatu dou Royaume de France et de Cite de Paris, MS. Klimrath seems to consider this work as identical with the "*Établissemens*" of Louis IX.

4. Pour munstrer et enseigner a un chascun quel ordre de proceder est en Cour laye, par la Coutume gardee pur Droit au Chatelet de Paris. This ancient treatise is quoted by Du Fresne in the preface to the *Établissemens de S. Louis.*

5. Les Anciennes Constitutions du Chatelet de Paris, in 84 articles, compiled in the thirteenth century. This work is to be found in the third volume of De Laurière's Commentary on the *Coutume* of Paris, in 3 vols. 12mo. Paris, 1777.

6. Les Decisions de Jean Desmares, *Conseiller et Avocat du Roi au Parlement, sous les Rois Charles V. et VI. dans lesquelles sont transcripts les usages et coutumes gardes en la Cour du Chatelet, et certaines sentences donnees en plusieurs cas notables.* The number of these decisions is 422, and they were collected in the fourteenth century.

7. Les Coutumes tenues toutes notoires et jugées au Chatelet de Paris: these are 186 in number. This and the preceding article are to be found in the second volume of Brodeau's Commentary on the *Coutume* of Paris, in 2 vols. fol. Paris, 1658, 1669.

8. La Practique de Cholet, MS.

3. COLONIAL LAWS, &c.

It appears most convenient to comprise the ancient and modern legislation of the French Colonies, and the treatises on that subject, in one article, which may be divided into the following heads:—

i. An Enumeration of the Colonies and Settlements or Possessions which France now retains, as well as those which she has lost.

ii. The general Legislation of the Colonies before the Revolution, with an Account of their various Courts of Law, and the Treatises published concerning them.

iii. The modern Legislation and Administration of the Colonies, and Treatises on them.

iv. The Promulgation of the modern Codes of France in the Colonies.

v. Certain Special Laws affecting both the Mother Country and the Colonies.

vi. The Municipal Administration of the Colonies.

vii. The History, Legislation, and Courts of Law of each Colony, &c. separately.

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i. *An Enumeration of the Colonies, &c.*

France has several colonies and possessions or establishments in Africa, Asia, the South Pacific Ocean, and America.

The colonies and possessions in Africa consist of, 1. The colony of Algiers; 2. Possessions on the River Senegal, the Isle of Goree; 3. The Isle of Bourbon; 4. The Isle of St. Marie-Galante, near Madagascar, and the settlements in the island of Madagascar, and in the Comoro Islands (particularly Mayotte), to the north-west of Madagascar.

The possessions in Asia consist of, 1. Pondicherry and Karikal, on the coast of Coromandel; 2. Mahé, on the Malabar coast; 3. Yanoron, on the coast of Orissa; 4. Chandernagore, in Bengal.

The colonies, &c. in the Pacific Ocean consist of, 1. The Marquesas Island; 2. The Settlement Akaroa, in the southern island of New Zealand; 3. The protectorate of the island of Tahiti, one of the Society Islands.

The colonies and possessions in America consist of, 1. The Isles of St. Pierre and Miquelon, at the entrance of the Bay of Placentia, in North America (with several islets belonging to the same); 2. The islands of Martinique, Guadaloupe, Marie-Galante, La Désirade, Les Saintes (part of the Lesser Antilles, in the Caribbean Seas); 3. Two-third parts of the island of St. Martin, in the Caribbean Sea (the other third part belonging to the Dutch); 4. Part of Guyana, on the northern coast of South America, which is also called Cayenne.

Besides the above colonies and settlements, the French had in former times the following colonies and possessions:—

St. Dominica, one of the Caribbee Islands, now belonging to England. The French took this island from the Spaniards in 1778, but restored it in 1783.

St. Vincent, one of the Caribbee Islands, now belonging to England. This island was first colonized by the French in 1714. By the treaty of peace in 1783, it was given up to the English.

St. Lucia, an island in the Caribbean Sea, now belonging to England. The

French made settlements in this island in 1650. It was taken several times by the English, and again in 1804; since which period it has remained in their hands.

GRENADA AND THE GRENADINES, islands forming part of the Lesser Antilles, and now belonging to England. The French formed settlements in these isles in the seventeenth century; they were ceded to England by the treaty of peace in 1763.

ST. BARTHOLOMEW, one of the Lesser Antilles, now belonging to the Swedes. This island was first colonized by the French in 1648, and was sold by them to the Swedes in 1785.

DOMINICA, one of the Lesser Antilles, now belonging to England. This island was discovered by Columbus in 1493. The right to the island was disputed by the Spaniards, French, and English before the year 1759, when the latter took possession of it; and their right to it was recognized by the treaty of peace in 1763. The island was conquered by the French in 1778, but was restored to England at the peace in 1783.

SANTA-CRUZ, or St. Croix, one of the Lesser Antilles, now belonging to Denmark. The French cultivated parts of this island in the seventeenth century, and sold it to the Danes in 1733. The English conquered the isle in 1801, and again in 1807, but restored it in 1815.

ST. DOMINGO, OR HISPANIOLA (now the Commonwealth of Haïti), one of the West India islands, and called by the French the "Queen of the Antilles." The French had possession of part of this island from the early part of the seventeenth century till the year 1791, when it was proclaimed a commonwealth, and has continued such (with slight interruptions) ever since.

THE LUCAYAS, OR BAHAMAS, islands lying to the north of Cuba and Haïti, and now belonging to England. A grant of these islands was made by Louis XIV. in 1662 to M. d'Ogeron, under the name of "*Les Isles Lucayes et Caïques.*" These latter (now called Caycos) are part of the Bahama group of islands. Some of these islands and islets have never been inhabited. The French do not appear ever to have regularly settled in any of them. The English formed settlements on some of them in the seventeenth and eighteenth centuries. St. Salvador (then called Hanahani), one of the Bahamas, was the first land on which Columbus set foot in America, on his first voyage in 1492.

Five other islands lying to the north of Haïti, namely, Inaque, Ibacque, Mergane, Guanasiany and Citatur, were granted by Cardinal Richelieu to the Sieur de Caen in 1633. The first of these islands is probably that which is now called "Inaqua."

The Isle *de la Tortue*, also lying to the north of Haïti, was in the possession of the French from about the middle of the seventeenth century till the Revolution.

ST. CHRISTOPHER'S or ST. KITT'S, one of the Caribbee islands, now belonging to England. The French began to form settlements on this island in 1627; the English had begun to settle there four years before. After many contentions between the English and French settlers, the island was at length ceded to the former. In 1782 the island was conquered by the French, but was restored at the peace in the following year.

TOBAGO, one of the Caribbee islands, now belonging to the English. Settlements were made in this island by the Dutch and English. In 1781 the French

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conquered this island, which was formally ceded to them two years afterwards by the treaty of peace in 1783. In 1793 it was conquered by the English, in whose hands it has ever since remained.

TRINIDAD, an island in the Columbian Archipelago, now belonging to England. The French took this isle from the Spaniards in 1676, but restored it almost immediately to them. In 1797 it was taken by the English, in whose power it has ever since remained.

LOUISIANA, one of the states of the great commonwealth of the new world, called the United States of North America. This country was first colonized by the French in the seventeenth century; it was sold by the republic of France to the United States in 1803, for the sum of fifteen million dollars.

CANADA (now called Lower Canada), a country belonging to England. This colony was first regularly colonized by the French in 1608. It was conquered by the English in 1759, and was formally ceded to them by the treaty of peace in 1763.

THE SEYSCHELLES, isles situated in the Indian Ocean, to the north of Madagascar, to which island they were formerly an appendant. They were conquered by the English in 1791, and again in 1810, and were formally ceded to them by the treaty of peace in 1814.

THE MAURITIUS (also called the *Isle de France* and the *Isle Meurice*), an island in the Indian Ocean. The French began to form settlements in this island in 1715, and gave it the name of the *Isle de France*. It was conquered by the English in 1810, and was formally ceded to them at the peace in 1814.

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ii. *The general Legislation of the Colonies before the Revolution, &c.*

The earliest legislative enactment of importance, with regard to the colonies, was the *Code Noir*, which was promulgated in the year 1685, in the reign of Louis XIV. The chief purpose of this enactment was the management and discipline of the negroes in the different colonies. Louis XIII. and his successors established in the colonies various tribunals for the administration of justice. These tribunals consisted of superior councils, royal courts, seneschalsies, the jurisdictions of the *Seigneurs*, comprising the *haute justice*, the *moyenne justice*, and the *basse justice*, councils of war, and perhaps some other minor tribunals; admiralty courts and tribunals called the "*Tribunaux des Terriers*."

The jurisdiction of the ordinary or inferior courts extended in the first instance over all cases which were not within the jurisdiction of the Admiralty Courts and the Courts of the *Terriers*. Appeals from all these inferior jurisdictions (excepting those from the Courts of the *Terriers*) lay to the superior councils. These councils and the ordinary tribunals decided according to the customary laws of Paris, and the king's ordinances, edicts, &c.; all which constituted the common law of the colonies.

The admiralty courts were established in the colonies in 1717. The jurisdiction of the judges was the same as that which was specified in the 2nd title of the 1st book of the Maritime Ordinance of 1681, and in the royal edict of 1711. It extended to all maritime and commercial contracts generally. Each court was composed of a deputy or lieutenant, a king's attorney, a registrar and one or more *huissiers*, as they might be needed. Appeals from these tribunals were brought before the superior councils of their locality.

The Tribunals or Courts of the *Terriers* had exclusive jurisdiction over grants from the crown, matters relating to the domain, the watering of the lands, servitudes, the keeping in order of the roads, bridges, &c.; fowling, the chase and fishing, &c. This tribunal consisted of the governor, lieutenant-general, the intendant and three counsellors of the superior council, chosen by that body. Appeals from this court lay to the *Conseil des Dépêches* in the mother country.

St. Domingo. There were two superior councils at St. Domingo, which decided in the last resort, the one at Port-au-Prince and the other at Cap-François; and there were also royal courts in the island, and four royal courts, each composed of a seneschal, a deputy or lieutenant, a king's attorney and a registrar (*greffier*).

Martinique. Martinique had also a superior council, which was originally established in 1664. The number of the members of the council was fixed by Louis XV. in 1768. It was composed of the governor, a lieutenant-general, the intendant, the second officer in command, the major-general or the person who filled his place, the commissary of marine, who performed the functions of the *sub-délégué-général*, the eldest commissary of the marine; fourteen titulary counsellors, an attorney-general, four assessors and a registrar.

Guadaloupe. This colony had a superior council, the composition of which resembled that of Martinique.

Cayenne. A superior council was established in this city in 1701, and was composed of the same number of officers, &c. as the councils of La Martinique and Guadaloupe. The councils of Martinique, Guadaloupe and Cayenne decided in the last resort, like those of St. Domingo.

Bourbon and the Mauritius. A sovereign council (which was before styled the "Provincial Council," and was created by an edict of the 17th March, 1711) was established in 1723 in the isle of Bourbon for that island and the isle of France; and a criminal provincial council for the latter island. These councils were suppressed in 1766, and new ones were created in their stead. The council appointed in the last-mentioned year for the isle of France consisted of the governor, lieutenant-general and the intendant, or the officers representing them, the second officer in command, the eldest commissary-general or *ordinaire* of the ports and arsenals of the marine, who performed the functions of first counsellor; of six titulary counsellors, an attorney-general and a substitute, four assessors and a registrar.

Bourbon. The council appointed in 1771 for the isle of Bourbon was composed of the commandant and of the *ordonnateur*, of six titulary counsellors, four assessors, an attorney-general, a substitute and a registrar.

Pondicherry. A superior council was established at Pondicherry in 1701; it was suppressed in 1776, and a new one created in its stead. The council consisted of a governor, the lieutenant-general, the intendant or *commissaire ordonnateur*, the eldest *officier d'administration* (when he had the rank of commissary of the marine), seven titulary counsellors, including a dean, an attorney-general and a substitute, two assessors and a chief registrar.

The secondary establishments in India had, from the time of their formation, particular courts or provincial councils, adjudicating on all matters like the superior council, but with a power of appeal from their decisions to the superior council.

At Karikal the ancient provincial council had (before the year 1775) given place to a native tribunal or *chaudrie*.

Surat. By letters-patent dated the 21st January, 1671, a sovereign council was to be

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established at Surat, or in such other places as the directors of the French East India Company should appoint. This council was to be composed of the directors-general of the commercial affairs in the Indies who should be on the spot, under such regulations (as to the days of audience, &c.) as the directors should appoint; and the decisions of this court (both in civil and criminal matters) were to be in the last resort. The heads of the various factories were to adjudicate on matters in the first instance; appeals were to be brought before the sovereign council.

Code Noir.

LE CODE NOIR, ou Recueil des Règlemens rendus jusqu'à présent, concernant le Gouvernement, l'Administration de la Justice, la Police, la Discipline et le Commerce des Nègres dans les Colonies Françaises. Et les Conseils et Compagnies établis à ce sujet. 24mo. Paris, 1742.

This is a collection of ordinances, &c. for the general government of the French colonies, but principally with regard to the management, discipline, &c. of the negroes therein, and hence its name; and also for the establishment of several companies for the purpose of trading to various parts of the world. The volume comprises more than what is termed the *Code Noir* itself, which was an ordinance promulgated by Louis XIV. in 1685, and is divided into sixty chapters.

The first edict in this collection, to which the name of the *Code Noir* has been peculiarly given, is dated in March, 1685, and is styled *Édit du Roi, touchant la Police des Isles de l'Amérique Françoise;* it was registered in the sovereign council of St. Domingo on the 6th May, 1687, and consists of sixty articles. The chief subjects of the articles are as follows:—

Art. 1. Jews banished; 2. Negroes to be baptized; 3. The Romish religion the only one tolerated; 8. Persons not of the Romish religion declared incapable of marrying; 9. Regulations concerning concubinage; 11. Restrictions as to the marriage of slaves; 12, 13. Concerning the offspring of slaves; 15—17. Slaves forbidden to carry arms or sticks, or to assemble, &c.; 18—21. Numerous other restrictions on slaves; 22—27. Directions for owners of slaves to provide for them, &c.; 28—32. Slaves declared incapable of possessing property, of filling certain offices of a public nature, and of being parties to actions civil or criminal; 33—43. The punishments inflicted on slaves; 44. Slaves declared to be moveable property, &c.; 45—53. Distresses and sales of slaves; 54—59. Regulations as to the treatment and enfranchisements, &c.

This volume contains two other edicts respecting the slaves in the colonies, and several enactments for the establishment of trading companies to the East and West Indies, &c.

The edict of March, 1685, was applied, with modifications, to the isle of Bourbon, by letters-patent dated in 1723, and is still partially in force there, and also in the other colonies of France.

DROIT PUBLIC, ou Gouvernement des Colonies Françoises, d'après les Loix faites pour ces pays. Par M. [Émilien] Petit, Deputé des Conseils Supérieurs des Colonies Françoises. 2 vols. 8vo. Paris, 1771. Public Law of the Colonies.

The Public Law of the French Colonies, by Émilien Petit, a delegate from the superior councils of the colonies to Paris. This work is divided into four chapters, which are subdivided into titles, sections, paragraphs and articles. The first and second chapters treat of the origin and nature of the government of the colonies; the second and third of the government in detail; and the fourth, of the ecclesiastical government. A great number of regulations for the government of the colonies will be found in these useful volumes.

DISSERTATION SUR LE DROIT PUBLIC, ou Gouvernement des Colonies Françoises, &c. Par M. Petit, &c. 8vo. Paris, 1778.

A Dissertation on the Public Law of the French Colonies, by the author of the foregoing article.

TRAITÉ DU GOUVERNEMENT DES ESCLAVES, &c. Par Jacques Petit, &c. 2 vols. 8vo. Paris, 1777. Government of the Slaves, &c.

A Treatise on the Government of the Negroes or Slaves in the French Colonies, by Jacques Petit, the son of Émilien Petit. He was at one time an advocate in the superior council at Martinique, and was born at Dijon on the 6th February, 1738.

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iii. *The Modern Legislation and Administration of the Colonies, &c.*

The French colonies are governed (*régies*) generally by uniform laws and regulations (*règlements*).

The 73rd article of the charter of 1814, says *the colonies shall be governed by special laws and regulations.*

The 64th article of the charter of 1830 stands thus: *The colonies shall be governed by special laws.* The suppression of the word *règlements* in this article was made for the purpose of restraining the power which the preceding government had attributed to itself, in the legislation of the colonies.

The organic law of the 24th April, 1833, after having created for Martinique, Guadaloupe, French Guyana and the Island of Bourbon, a legislative institution under the name of "COLONIAL COUNCIL," has determined the legislative powers of the mother country, the king and the colonial councils.

To the mother country belongs the power of enacting:—1. The laws relating to the enjoyment of political rights; 2. The civil and criminal laws concerning free persons, and the penal laws which determine, for persons who are not free, what crimes are punishable with death; 3. The laws regulating the special powers of the governors, in what relates to the measures of the *haute police*, and the general safety; 4. The laws on the judicial organization; 5. The laws on com-

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merce, custom-house regulations, the suppression of the slave-trade, and those which have for their object the adjustment of the relations between the mother country and the colonies.

The king has the power (the colonial councils or their delegates having been first heard) of regulating:—1. The administrative organization, excepting the municipal government; 2. The police of the press; 3. Public education; 4. The organization and service of the militia; 5. The conditions and forms of enfranchisements, as well as the census (*recensement*); 6. The ameliorations to be introduced into the condition of persons who are not free, compatible however with the rights of owners of such persons; 7. The punishments of persons not free; 8. The acceptance of legacies and gifts to public institutions.

All other matters not enumerated above are within the province of the several colonial councils; and they may be provided for by the decrees of the respective councils, on the governor's proposal, but they must be submitted to the king for his sanction.

The colonial councils debate and vote on the interior budget for the colony, excepting the governor's salary, and the expenses of the *personnel* of justice and the customs, which are fixed by the mother country; and on the assessment of the local taxes. The governor may declare the decrees made by the colonial council to be provisionally executory.

The colonial councils may give their advice in certain specified matters, by an address to the king in some cases; in others, by a memorial to the governor.

Martinique, Guadaloupe, French Guyana and the Isle of Bourbon have delegates or deputies constantly residing in Paris, who are elected by the colonial councils. These delegates (seven in number) form a council in that city, whose duty it is to give information to the government touching the general interests of the colonies, and to endeavour to carry into effect the wishes and deliberations of the colonial councils. Their functions last as long as the functions of the councils by whom they were delegated.

The law of the 24th April, 1833, declares that the French establishments in the East Indies and Africa, and the fishing establishment at St. Pierre and Miquelon, shall continue to be governed by the king's ordinances.

Till the revision and completion of the actual legislation of the colonies takes place, in conformity to the regulations above-mentioned, they continue to be governed by the laws and ordinances that were in force before the law of the 24th April, 1833, and were based generally on the legislation of France.

JUDICIAL ADMINISTRATION.

The judicial organization and the administration of justice in the colonies are regulated by the king's ordinances. At Martinique, Guadaloupe, French Guyana and the Isle of Bourbon, these ordinances were to be succeeded by laws, according to the law of the 24th April, 1833.

Justice is administered in the colonies generally (to begin with the lowest jurisdiction) by tribunals of justices of the peace, courts of first instance, royal courts, assize courts, appeal councils, and, in matters relating to foreign commerce and the customs, by privy councils.

Judgments in the last resort and the decisions of the different courts, &c. may be annulled (*attaqués par voie d'annulation ou de cassation*), in specified cases.

Justices of the peace.

The tribunals of the justices of the peace take cognisance (as in France) of actions civil, personal, and relating to moveables and to commerce, and of contraventions of police regulations.

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The courts of first instance have in civil matters jurisdiction analogous to that of the courts of first instance in France; but the cognizance of ordinary correctional delicts or misdemeanors, as well as the *mises en prévention*, which belong in France to the courts of first instance, are appropriated exclusively to the *cours royales* (where they exist);—the courts of first instance have, therefore, no other correctional jurisdiction than the adjudicating on certain delicts relating to the customs and commerce with foreigners.

Royal courts.

The royal courts are invested with powers which in France are distributed between the court of cassation, the royal courts, and the courts of first instance. They act as courts of appeal from the decisions of the latter, and as correctional tribunals, in the first and last resort, in cases of ordinary delicts. And moreover they decide as *chambres d'accusation*, on the *mises en prévention* and the *mises en accusation*, and exclusively supply the magistrates who are appointed to hold the assizes.

Assize courts.

The courts of assize take cognizance, as in France, of all cases wherein the fact (the object of the proceedings) is of such a nature that condemnation brings with it a corporal or degrading punishment. They are composed of the counsellors of the royal courts, and of assessors chosen from among the colonists.

Privy councils.

The privy councils are constituted also councils of the *contentieux administratif*, for adjudicating on matters similar to those which are referred to the councils of the prefectures in France. Appeals (*recours*) lie from this latter court to the *conseil d'état*. The privy councils decide (but subject to the *recours en cassation*) on appeals from the decisions of the tribunals of first instance, in matters relating to contravention of the laws and regulations relating to the customs and foreign commerce and transfer. The proceedings before these courts (privy councils) are regulated by a royal ordinance dated the 31st August, 1828.

The privy councils are for the assistance of the governor.

A royal ordinance, dated the 15th April, 1831, established the free exercise of the profession of advocates in the colonies.

Provosts' courts may be established in the colonies, in cases of rebellion, &c. by virtue of the organic law of the 24th September, 1828.

General administration.

In each of the colonies, the chief command and the *haute administration* are vested in a functionary, civil or military, who is named the governor. The heads of administration have the direction, under his orders, of the different branches of the service.

There is a colonial inspector, whose business it is to take care that the duties of the various administrative functionaries are regularly performed, and that the laws and ordinances and the local acts and regulations are properly carried into execution.

Statistical Notices of the Colonies.

NOTICES STATISTIQUES sur les COLONIES FRANÇAISES. Imprimées par ordre de M. le Vice-Amiral de Rosamel, Ministre Secrétaire d'État de la Marine et des Colonies. [Par M. Saint-Hilaire.] 4 parts (in 1 vol.) 8vo. Paris, 1837—40.

Statistical notices of the French colonies (excluding Algiers and the settlements in the South Pacific Ocean), printed by order of the secretary of state for the French navy and colonies.

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Each part embraces one or more colonies, and to each colony are assigned fourteen chapters. The headings of the chapters are alike in all the parts, and are as follows:—

Chap. 1. An historical introduction; 2. Topography, &c.; 3. Meteorology; 4. Population; 5. Legislative power, government and administration; 6. General legislation; 7. Judicial organization and administration of justice; 8. Military force; 9. Finances; 10. Cultivation of the soil, &c.; 11. Trades, manufactories, &c.; 12. Commerce; 13. Monies, weights and measures; 14. Establishments of public utility.

Each part has an index of the chapters and several tables.

The first part has an introduction, and a preliminary notice which treats of the population, legislation, justice, government, administration, agriculture and commerce of the several colonies.

Projected *Code Noir*.

PROJET DE CODE NOIR POUR LES COLONIES FRANÇAISES, par M. Billard. 4to. Paris, 1829.

The Three Ages of the Colonies.

LES TROIS AGES DES COLONIES, ou de leur état passé, présent et à venir, par M. de Pradt. 3 parts in 8vo. Paris, 1801—2.

The Three Ages of the Colonies, or their Past, Present and Future State, by De Pradt.

Dominique Dufour de Pradt, formerly archbishop of Mechlin, was born in Auvergne on the 23rd April, 1759, and died on the 18th March, 1837. He was a most voluminous political writer; the number of his works is thirty-eight, a list of which will be found in the *Biographie Universelle*, article "Pradt."

THE COLONIES, BY DE PRADT.

DES COLONIES ET DE LA REVOLUTION ACTUELLE DE L'AMÉRIQUE, par M. de Pradt. 2 vols. 8vo. Paris, 1817.

A Treatise on the Colonies and on the revolutions then taking place in America, by De Pradt. The work relates to the colonies of the different states of Europe; the fifth and twelfth chapters concern the French colonies.

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iv. *The Promulgation of the Modern Codes of France in the Colonies.*

THE CIVIL CODE.

The promulgation of this code in Africa took place as follows:—

1. This code is in force in Algeria; but the compiler does not know the time of its promulgation there.

2. IN SENEGAL and its dependencies, it was promulgated, with modifications, by a local decree dated the 5th November, 1830. By the 25th article of the law of the 24th April, 1833, touching the legislative government of the French

colonies, the establishments in the western coast of Africa continue to be governed by the royal ordinances.

Promulgation of the Codes.

3. In the Island of Bourbon (including Madagascar, St. Marie, &c.), by a local act dated the 25th *Vendémiaire, an* xiv. (16th October, 1806), which was followed by two supplementary acts of the 23rd October in the same year. One of these related to mortgages and forced appropriations for the public utility; and the other related chiefly to the condition of persons.

This code was promulgated in the Asiatic settlements by a local act dated the 6th January, 1819.

The promulgation of this code in the American colonies took place as follows:—

1. In St. Pierre and Miquelon, by a royal ordinance dated 26th July, 1833, together with the codes of civil process and commerce, and was (with them) to be observed as modified by that ordinance, and when not contrary to the regulations then in force in the colony.

2. In Martinique, it was promulgated on the 16th *Brumaire, an* xiv. (6th November, 1806).

3. In Guadaloupe and its dependencies, it was promulgated on the 18th *Brumaire, an* xiv. (8th November, 1806).

In French Guyana, by a local act, dated the 1st *Vendémiaire, an* xiv. (22nd September, 1806).

The law of the 8th April, 1832, amending the civil legislation of France, was applied to the colonies by an ordinance of the year 1836.

THE CODE OF CIVIL PROCESS.

The promulgation of this code in the African colonies took place as follows:—

1. In Algeria, by a royal ordinance dated the 16th April, 1843, with the modifications specified in the ordinance.

2. In Senegal and its dependencies, it was partially put in force by two local decrees, dated in April and June, 1823, and until the whole of the code is promulgated, the tribunals are directed by the royal ordinances.

3. In the Island of Bourbon and its dependencies, it was partially promulgated by a local act, dated the 20th July, 1808, to take effect from the 1st October following. This act made some slight alterations in the law respecting the *saisies immobilières* (distresses on real property), which are in force in the island. A royal ordinance was made on the 16th December, 1827, respecting the manner of proceeding in civil causes in the island, until the code of civil process should be wholly and definitively promulgated in the island and its dependencies.

This code was promulgated in the Asiatic settlements by a local act dated the 6th January, 1819.

The promulgation of this code in the American colonies took place as follows:—

1. In St. Pierre and Miquelon, by a royal ordinance dated the 26th July, 1833.

2. In Martinique, by a royal ordinance dated the 19th October, 1828, but with numerous modifications. Martinique had been previously governed by the civil ordinance of 1667.

3. In Guadaloupe and its dependencies, by a local act dated the 15th Sep-

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tember, 1808, but with numerous modifications. Guadaloupe had been previously governed, in matters relating to civil process, by the civil ordinance of 1667.

4. In French Guyana, by a local act dated 25th August, 1821.

THE COMMERCIAL CODE.

The promulgation of this code in the colonies in Africa took place as follows:—

1. This code is in force in Algeria,—time of promulgation unknown to compiler.

2. In Senegal and its dependencies, it was put in force on the 1st July, 1819, by virtue of a local act dated in the foregoing month.

3. In Bourbon and its dependencies (including the Mauritius), by a local decree dated the 14th July, 1809; but with modifications.

This code was promulgated in the Asiatic settlements in 1819 by a local act, dated the 6th January of that year.

The promulgation of this code in the American colonies and possessions took place as follows:—

1. In St. Pierre and Miquelon, by a royal ordinance, dated the 26th July, 1833.

2. This code has not been promulgated in Martinique. That colony is still governed (in commercial affairs) by the ordinance of 1673, called the "*Code Marchand*," which was the common law, with respect to commercial matters, both in the mother country and in the colonies, before the publication of the commercial code; and by the marine ordinance of 1681.

3. In Guadaloupe, this code was put in force at the same time as the code of civil process, namely, on the 15th September, 1808.

4. In French Guyana, it was put in force by a local act on the 15th November, 1820.

THE CODE D'INSTRUCTION CRIMINELLE.

The promulgation of this code in Africa took place as follows:—

1. This code is in force in Algeria,—time of promulgation unknown to compiler.

2. In Senegal and its dependencies, by a royal ordinance, dated the 14th February, 1838, which was made to agree (*mise en harmonie*) with the *éléments judiciaires* created by the organic ordinance of the 24th May, 1837.

3. In the Island of Bourbon and its dependencies, it was partially published by a local act, dated the 12th June, 1815, and was made wholly applicable to the island by a royal ordinance, dated the 19th December, 1827. The modifications in this code for the mother-country, made by the law of the 28th April, 1832, were made applicable to this colony (with some additional modifications) by a special law of the 22nd June, 1835.

This code was promulgated in the Asiatic settlements by a local act, dated the 21st April, 1825; but with retrenchments, chiefly regarding the courts of assise and the jury system. In other respects this code, the civil code, and the code of civil process, were promulgated without the modifications which local circumstances required.

The promulgation of this code in the American colonies and settlements took place as follows:—

1. It was introduced into St. Pierre and Miquelon and their dependencies

(together with the *Code Pénal*), by a royal ordinance, dated the 26th July, 1833, as modified by the law of the 28th April, of the same year.

Promulgation of the Codes.

2. It was applied to MARTINIQUE AND GUADALOUPE and its dependencies by a royal ordinance, dated the 12th October, 1828. This ordinance was modified (as to Martinique) by a law of the 22nd April, 1832.

3. IN FRENCH GUYANA, this code was promulgated by a royal ordinance dated the 10th May, 1829.

A law of the 22nd June, 1835, declared to be applicable to the colonies, with certain modifications, the law of the 28th April, 1832, which contains modifications in this code, and also in the *Code Pénal*.

THE PENAL CODE.

The promulgation of this code in the African colonies took place as follows:—

1. This code is in force in ALGERIA,—time of promulgation unknown to compiler.

2. IN SENEGAL, by a local act, dated in May, 1824; and other local acts, and also a royal ordinance, dated the 14th February, 1838, have applied to the colonies the modifications in this code which have been made in France.

3. IN THE ISLAND OF BOURBON and its dependencies, it was partially published by a local act, dated the 12th June, 1815, and wholly applied to the island by a royal ordinance, dated the 30th of December, 1827. The law of the 28th April, 1832, modifying this code and the *Code d'Instruction Criminelle* for the mother country, was made applicable (with modifications) to the colonies by a law dated the 22nd June, 1835.

This code was promulgated in Pondicherry and its dependencies by a local act, dated the 6th January, 1819. A royal ordinance, dated the 29th March, 1836, applied to these settlements, with the necessary modifications, the law of the 28th April, 1832, which introduced several mitigations of the criminal laws in the mother country.

The promulgation of this code in the American colonies took place as follows:—

1. IN ST. PIERRE AND MIQUELON, by a royal ordinance, dated the 26th July, 1833, with the modifications made therein by the law of the 28th April, 1833.

2. IN THE LESSER ANTILLES, this code was made applicable to Martinique and Guadaloupe and its dependencies by a royal ordinance, dated the 29th October, 1829. It was modified, as to Martinique, by a law dated the 22nd April, 1832; and as to Guadaloupe and its dependencies, by a law dated the 22nd June, 1835.

3. IN FRENCH GUYANA, by a royal ordinance dated the 15th February, 1829.

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v. *Certain Special Laws affecting both the Mother Country and the Colonies.*

The *Expropriation forcée* (sales of immoveable property by a judge's order, at the suit of creditors, &c.). This subject forms the 19th title of the Code Civil. The civil code was promulgated in the Isle of Bourbon by virtue of a local act, dated the 17th October, 1805; but a local act of the same year regulated the execution of this law.

By the local act of the 7th November, 1805, promulgating the civil code in the Isle of Martinique, the *expropriation forcée* was to have been put in force in the

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island a year after the general peace. The compiler of this Catalogue cannot ascertain whether it has been yet put in operation; in the meantime Martinique is governed in this matter by the royal declaration of the 24th August, 1726, which, in anticipation of the difficulty that would attend the *saisies réelles* in these colonies (including Guadaloupe and its dependencies), authorized an *action résolutoire*, under the name of *déguerpissement*, applicable both to Martinique and Guadaloupe.

The *Expropriation pour cause d'utilité publique* (the forced application of immoveable property for the public service or utility, an indemnity being granted to the owners, &c.) is in operation in the colonies, as follows:—

Expropriations for the public utility are in force in the colony of Algeria.

The law of the 8th March, 1810, on this subject, was promulgated in Senegal and its dependencies (with modifications) by a local act, dated the 17th November, 1823. This law is in force (with modifications) in Martinique and also in Guadaloupe by a local act, dated the 25th June, 1820, but with slight modifications.

The *Régime hypothécaire* (concerning privileges and mortgages) is in operation in the colonies, as follows:—

The *Conservation des hypothèques* exists in Algeria.

The *Conservation des hypothèques*, which had been in existence in Senegal since 1820, was fully established in that colony by a local act, dated the 26th December, 1832. This *régime* was in force in the Isle of Bourbon from the time of the promulgation there of the Code Civil; but on the 14th June, 1829, this *régime* was organized in the French Antilles and French Guyana, and this organization was extended to the Island of Bourbon and its dependencies by a royal ordinance, dated the 22nd November, 1829. There are now in this island two *bureaux de conservation des hypothèques*,—the one at St. Denis, and the other at St. Paul.

The 2nd title of the royal ordinance of the 26th July, 1833 (promulgating the five codes in the islands of St. Pierre and Miquelon), fixes the organization of the *régime hypothécaire* for these isles. There is a *bureau* for the *conservation des hypothèques* established at St. Pierre.

The 18th title of the *Code Civil* on this subject is in the same position with regard to Martinique and Guadaloupe and its dependencies, as the *expropriation forcée*—see p. 57. The *conservation des hypothèques*, which had existed in Martinique since the 7th November, 1805, was fully established there, and also in Guadaloupe by a royal ordinance, dated the 14th June, 1829.

The *conservation des hypothèques* had also existed in French Guyana since the publication there of the *Code Civil;* and was fully established there by a royal ordinance, dated the 14th June, 1829, which was modified in some respects by two other royal ordinances, the one dated the 1st July, 1831, and the other the 22nd September, 1832.

The *Enregistrément* (Registration). This was introduced into Algeria by local acts promulgated in 1832.

Registration is in use in the Island of Bourbon. It had existed in the island a long while by virtue of local acts, but was fully established there by a royal ordinance, dated the 19th July, 1829. It was introduced into the French Antilles and French Guyana by an organic ordinance, dated the 31st December, 1828. This latter ordinance was, however, modified as to Martinique by a royal decision of the 28th September, 1830; and by two royal ordinances, dated

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the 1st July, 1831, and the 16th May, 1832; as to Guadaloupe and its dependencies, by the two latter ordinances; and as to French Guyana, by the same two last-mentioned ordinances, and by another, dated the 22nd September, 1832.

Gifts and legacies to pious and other uses. The rules to be observed on this subject in the Indian settlements are laid down by two royal ordinances, the one dated the 30th September, 1827, and the other the 25th June, 1833. The former ordinance also applies to Senegal.

Vacant Successions. Special laws have always been in force in the colonies respecting vacant successions. The royal edict of the 24th November, 1781, on this subject, was made for the American colonies only; but its regulations have been applied to some other colonies by royal ordinance. By a royal ordinance, dated the 16th May, 1832, the administration of these successions was transferred, from the curators appointed by the edict in each jurisdiction of the first instance, to the receiver of the *enregistrément*. In the colony of Algiers, curators of vacant successions in the resort of the tribunals of first instance were appointed by a royal ordinance, dated the 26th December, 1842.

In Senegal and its dependencies, the edict of the 24th November, 1781, is in force, with modifications. Two local acts on this subject were passed on the 5th May and the 5th July, 1838. In the islands of St. Pierre and Miquelon, there are curators of vacant succession; but with respect to the successions of French sailors who die in these isles during the fishing seasons, the administration of the marine manages such successions.

The *Droit d'Aubaine et de Détraction*, or the right of the kings of France to succeed to the property of all foreigners who died within their dominions. The right of *détraction* enabled the king to retain part of the succession of such property, when he allowed the relatives of such foreigners to succeed to their property.

These prerogatives were abolished in France by a royal ordinance, dated the 14th July, 1819; and this ordinance was applied to the colonies by another royal ordinance, dated the 21st November, 1821, but with the following modification, "that foreigners were forbidden to export negroes, commonly called slaves, and articles or things serving for building purposes," &c.

Personal Arrest or Imprisonment. The law of the 17th April, 1832, on this subject was applied to Senegal, the Islands of St. Pierre and Miquelon, and to the French settlements in India by a royal ordinance, dated the 12th July of the same year. With respect to the settlements in India, the previously existing regulations regarding Indian debtors are still in force.

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vi. *The Municipal Administration of the various Colonies.*

In Algeria. At Algiers, the municipal administration consists of a mayor, a French and a native *adjoint*, and counsellors. There is also in that city a central commissary of police and three other commissaries. At Oran there is a municipal council, consisting of a mayor and an *adjoint*, and counsellors. At Bona there is a municipal council, consisting of a mayor and an *adjoint*, and counsellors; and there is also a commissary of police. At Constantina there is a municipal council, consisting of a mayor and *adjoint*, and counsellors; and there is a sub-intendant civil, and a commissary of police. There is a *commis-*

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saire civil at Coléah, and another at La Calle. At Philippeville-Stora there is a municipal council, consisting of a mayor and counsellors; and there is also a commissary of police. There is a *commissaire civil* at Boufarik, and another at Shershels. According to the royal ordinance, dated the 15th April, 1845, every *centre de population*, which is constituted a *commune*, is to have a mayor and *adjoints;* every tribe or part (fraction) of a tribe established in the civil territory has a kaïd or a sheik; every circle (except the capital of the arrondissement), a *commissaire civil;* every arrondissement, an under-director of the interior and of the public works.

In Senegal, the municipal administration is confided, in each of the cities of St. Louis and Goree, to a mayor and counsellors, who has at the same time to perform the functions of the police. The mayors have *adjoints.*

In the Island of Bourbon and its dependencies, the municipal administration was organized by a colonial decree, dated the 22nd July, 1834. By this decree the colony is divided into twelve *communes* (since that time another has been added), which are subdivided into arrondissements. Every *commune* has a municipal council, consisting of the mayor of the chief place or town and several *adjoints*, and of municipal counsellors, the number of whom is not to be less than ten, nor more than twenty-four. The mayor and *adjoints* are named by the governor; the municipal counsellors are elected for four years by the assembly of the electors of the communes.

In the settlements at Madagascar, there is no municipal administration, properly so called.

In Pondicherry, there appears to be no regular municipal administration; but there are administrations at Chandernagore, Karikal, Mahé, and Yanaon, subject to the authority of the governor at Pondicherry.

There appears to be no regular municipal administration in the settlements &c. in the South Pacific Ocean.

In the Islands of St. Pierre and Miquelon, there does not appear to be any regular municipal administration.

The Island of Martinique is divided for the purposes of (*sous le rapport*) municipal administration into twenty-seven quarters. In each of these quarters there is a commissary commandant, selected by the governor from among the notable inhabitants. His authority is similar to that exercised in France by the mayor and commandants of the national guard. The functions of the officers of the *état civil* are performed in each *commune* by a special agent. The municipal organization of Martinique was (in 1837) to be regulated by a colonial decree, based on the municipal organization of the mother country.

The Island of Guadaloupe and its dependencies are divided into three *arrondissements* and twenty-four *communes* or quarters. There is a municipal council in each of the cities of La Basse-Terre, La Pointe-à-Pitre, and the towns of Le Moule, Grand-Bourg in the island of Marie-Galante, and Marigot in the island of St. Martin. The functions of the officers of the *état civil* are performed in the urban and rural *communes* by persons specially appointed for that purpose. The municipal organization of Guadaloupe is only temporary (1837); it is to be regulated by a colonial decree.

vii. *The History, Legislation and Courts of Law of each Colony separately.*

ALGERIA.

This country, the capital of which is Algiers, was formerly one of the Barbary States, and was called the Regency of Algiers. Previously to the invasion of the country by the French in 1830, it was divided into four provinces, namely, Algiers, Constantina, Tittery and Oran: it is now divided into three provinces, namely, Algiers, Constantina (subdivided into Constantina and Bona) and Oran. This state comprises the ancient Numidia and part of the ancient Mauritania.

The earliest inhabitants of this country were in all probability a nomadic or pastoral race. Numidia, which was the proper kingdom of Jugurtha, was reduced to the form of a Roman province by Julius Cæsar; and Mauritania became subject to the Romans in the reign of Claudian. In the year 429 the Vandals, under the conduct of their king Gontharic or Gensaric, conquered this country; but within little more than a century from that period, Belisarius reestablished the Roman, or rather Byzantine, dominion over it. In the latter end of the seventh and the early part of the eighth century the Arabs or Saracens overran the whole of the northern part of Africa, and at the same time introduced therein the Mahomedan religion. In the year 1509 an expedition was sent by Ferdinand King of Spain into Africa, under the command of Cardinal Ximenes and Count Pedro Navarre, who took possession of Oran and the neighbouring country, including Algiers, and built a fort on some rocks or islets, opposite the city of Algiers. The Saracens or Moors, however, disliking the Spanish yoke, called in the assistance of Aroodje or Horush (by Europeans called Barbarossa), a famous Turkish corsair, but born of Christian parents. He reconquered part of the country about the year 1516, and became sole master of Algiers, but two years afterwards he fell in battle against the Spaniards. His brother and successor Khair Eddin put Algiers in 1519 under the protection of the sultan of the Turks, who appointed him pacha or regent of Algiers; and from that time till the conquest of the country by the French, the territory of the regency formed part of the Turkish empire. The governor or viceroy for the sultan was styled "Dey" in later times. In the year 1827, in consequence of a grave insult being offered by the last dey to the French consul Duval, and no satisfaction being given for the insult, the French blockaded the port of Algiers; the blockade lasted three years, but was without effect. At length in the month of June, 1830, a powerful armament was fitted out by France, and on the 5th July following Algiers surrendered to the French; and since that period the whole of the territory of the former regency of Algiers may be considered as forming part of the dominions of France.

The native inhabitants of this country are—1. The Moors, who live in and near the towns, and are of a mixed race; many of them are descended from the Moors who were driven out of Spain after the taking of Granada in 1492. 2. The Bedouin Arabs, who lead a pastoral life. 3. The Berbers or Kabyles, who chiefly dwell in the mountains and vallies of the Atlas, and are in all likelihood the descendants of the ancient Numidians. 4. The negroes from Soudan. 5. The Jews, who live mostly in the towns. 6. The descendants of the Turkish militia, called Qoul-Oughly (Cooloolies or Coulouglis).

The judicial organization and the administration of justice in the colony of Algeria have been regulated by various enactments and royal ordinances, the

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earliest of which was a provisional decree by the then governor of the colony, dated the 16th October, 1830. Another general enactment on the subject was made by a royal ordinance dated the 30th November, 1844, which modifies a royal ordinance on the subject dated the 26th September, 1842. The composition and competency of the various tribunals, both French and native, in this colony, as regulated by the last two ordinances, are as follows:—

French tribunals.

I. THE FRENCH TRIBUNALS. These consist of—1. A royal court that sits at Algiers. 2. Tribunals of first instance, which sit at Algiers, Bona, Constantina, Philippeville-Stora, Oran, and other places where it may be thought proper to establish them. 3, 4. A commercial tribunal and a commercial chamber, which hold their sittings at Algiers. 5. Tribunals of justices of the peace, which sit at Algiers (two in this city), Oran, Mostaganem, Douera, Constantina, Bona, Philippeville-Stora and Bleda, and also at such other places as it may be thought proper to establish them. There are also councils of war.

The French tribunals take cognizance of all civil and commercial matters between every kind of persons, excepting those wherein Mussulmans alone are parties, which are to be brought before the cadis. In causes wherein a Mussulman is interested, the French tribunals are assisted by a Mussulman assessor: the same rule applies to appeals brought before the royal court in civil and commercial matters. All agreements and contestations between Frenchmen and foreigners are governed by the French law. In all disputes between Frenchmen or foreigners and natives, the French law, or that of the country, is applied, according to the nature of the subject in dispute, the tenor of the agreement, or (in default of agreement) according to the circumstances of the case or the presumed intention of the parties. The French tribunals also take cognizance of all crimes and delicts or contraventions (excepting the cases reserved for the councils of war) which affect the French, the natives and foreigners (*à quelque nation ou religion qu'appartienne l'inculpé*). In all causes the *recours en cassation* is open, as against the decision of the tribunals to the judgments pronounced in the last resort.

Royal court.

THE ROYAL COURT is composed of a president, a vice-president, twelve councillors, an attorney-general and two substitutes, two advocates-general, a chief registrar, and two sworn registrar's clerks.

The jurisdiction of the Royal Court extends over all the territories comprised in the resort of the tribunal of first instance in Algeria. This court is divided into a civil chamber and a criminal chamber.

1. As a civil chamber it takes cognizance, in civil and commercial matters, of appeals from the decisions in the first resort, of the tribunals of first instance and of commerce, and also of the Mussulman tribunals.

2. As a criminal tribunal, it decides—1. directly on all matters within the jurisdiction of the courts of assize directly for the province of Algiers, and on appeal from the decisions of the tribunals of Bona, Constantina, Oran and Philippeville-Stora; 2. by way of appeal on correctional matters; 3. directly (in such cases as are within the jurisdiction of the royal courts in France) on crimes and delicts specified in the *Code d'Instruction Criminelle*, chap. 2, tit. 4, book 2. The right of evocation, &c. is taken away from this court.

Tribunals of first instance.

THE TRIBUNAL OF FIRST INSTANCE AT ALGIERS is composed of a president, two vice-presidents, nine judges (one of whom is the *juge d'instruction*), three *juges-adjoints*, a king's attorney and three substitutes, a registrar and clerks,

whose number is regulated by the minister of war. The jurisdiction of these tribunals extends over all the territories which are occupied in each province.

This tribunal is divided into two chambers, a civil chamber and a correctional chamber; the first of which takes cognizance of civil matters, and the other of correctional matters, of appeals in simple police matters, and also of such civil matters as may be referred to it. The president of the tribunal presides in this chamber, and one of the judges who is appointed yearly for that purpose by the minister of war.

Each of the tribunals of first instance at Bona, Constantina, Oran and Philippeville-Stora, is composed of a president, four judges (one of whom is the *juge d'instruction*, a king's attorney and a substitute, a registrar and sworn registrar's clerks, whose number is fixed by the minister of war.

The competency of the tribunals of first instance, in matters civil and correctional, is the same as that of the tribunals of first instance in France. These tribunals also take cognizance, in the first resort, of appeals from the decisions of the justices of the peace, in civil and simple police matters. And the tribunals of first instance at Bona, Constantina, Oran and Philippeville-Stora, take cognizance of crimes (subject to appeal), and of commercial matters, in respect of which their competency in the first and last resort is the same as in civil matters.

Commercial tribunal.

THE COMMERCIAL TRIBUNAL at Algiers is composed of notable merchants, a registrar and clerks, the number of whom is regulated by the minister of war. The competency of this tribunal is the same as that of the tribunals of commerce in France. They decide in the last resort within the limits prescribed by the 10th article of the *Code de Commerce*.

Chamber of commerce.

THE CHAMBER OF COMMERCE at Algiers is composed of a president, ten judges, a secretary and a registrar.

Justices of the peace.

THE TRIBUNALS OF JUSTICES OF THE PEACE. Each of these tribunals has two *juges suppléans*, two registrars, and also *défenseurs*. The competency of these tribunals, in the first and last resort, in matters civil and of simple police, is the same as that of the justices of the peace in France. There are *défenseurs*, interpreters and *huissiers* attached to all these tribunals.

Native tribunals.

II. THE NATIVE TRIBUNALS. These consist of—1. Tribunals for the Mussulmans, the appointment of the judges to which is in the hands of the king. 2. Tribunals for the Jews, the judges of which are also appointed by the king.

Mussulman tribunals.

1. THE MUSSULMAN TRIBUNALS. The Mussulman tribunals are appropriated to two of the sects of the orthodox or Sonnite followers of the Mahometan religion, which prevail in Algeria, namely, the sect of Hanefi (which includes the Turks and their descendants called *Couloughlis*) and the sect of Malec (called Malekites, which comprises the Moors, Arabs and Kabyles). Each of these sects has at Algiers a mufti and cadis. The other two sects of the Sonnites are the Shafeites and the Hanbalites.

In the Koran the religion and laws of the Mahometans are mingled together, in imitation of the books of Moses; and the functions of the priesthood and the administration of justice are united in one and the same body, namely, the college of *Ulemas* (learned men), at the head of which is the mufti, who is therefore the head both of the religion and the law. There were at Algiers (previously to the French conquest) two muftis and two cadis, one of each for the Hanefite sect, and the other for the Malekite sect. There were also special cadis attached to the three hospitals or charitable institutions, called "*Beit-el-*

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Mal," " *Mecca*," and " *Medina*." Every one of the principal cities had one cadi, or more if they were required; and every district or canton and village had also its cadi. Every tribe had its sheik or elder for ordinary matters, but in those of importance, or in cases of dispute, recourse was had to the cadi of the district. The cadis were selected from the body of the *ulemas*. The cadis of Algiers were reckoned superior to those of the inferior cities, and the cadis of the other cities were held superior to the district cadis. The jurisdiction of the cadis extended over all civil and criminal cases which were regulated by the law (that is, by the Koran, the Sonnah or received traditions, and the commentaries of the doctors on the law). Worms, in his *Recherches sur la Constitution de la Propriété territoriale dans les pays Mussulmans, et subsidiairement en Algérie* (see *infra*, p. 64), enumerates four sources of the Mussulman law, namely, the Koran, the Sonnah, the Idjmaa and the Kiaess. The secular tribunals, however, did not confine themselves to the above four elements of the Mussulman law; but, as cases occurred, for the decision of which no authority was furnished by the actual jurisprudence of the tribunals, they decided according to the dictates of natural reason. The cadis also decided on matters relating to the dogmas, ceremonies and discipline of the Mahometan religion, and on those relating to charitable institutions. The jurisdiction of the cadis was not confined to the territory or district to which they were appointed; for the parties at variance might submit their case to any cadi of their own choosing, not only in the regency but even to a cadi at Fez or Tunis. The cadi was assisted in his judgments by several *oudoul* (a kind of assessors), as witnesses and registrars of the proceedings; and part of the duty of these latter appears also to have been the drawing up of deeds, &c. The other inferior officers or attendants of the cadi's court were the *khateb* (a kind of registrar or notaries' clerks), and *schaouchs* or tipstaves, &c. The audiences were public, and the parties pleaded their own causes; a third party was seldom allowed to appear for any of the suitors, and then only in civil matters. Appeals from the decisions of the cadis appear to have been brought before the assembly or council called the *midjeles*, which was composed of the mufti and cadi (and at Algiers of individuals of that rank, when there were any that belonged to either of the two sects of Malec and Hanefi), who deliberated on the point of law, and also sometimes on the fact. Assessors sat in this court as well as in tribunals of the cadis; and the decisions of the court were pronounced by the cadi. Petitions for the rehearing of causes were addressed to the dey, in the province of Algiers; and in the other provinces, to the respective governors of the same. A general assembly of the *ulemas* took place on such occasions, when the decisions were either confirmed or quashed.

This was the state of the administration of the law in the regency of Algiers down to the time of the French occupation of the country. Since the conquest the following are the principal alterations made with regard to the power and competency of the cadis and other officers, and in the administration of the law among the natives. The appointment of the muftis and the cadis is made by the king. The cadis are restricted from taking cognizance of matters in dispute, whether civil or commercial, between any other persons than Mussulmans; they are also prohibited from deciding on cases of infractions of the law committed by Mussulmans, which are punishable according to the law of the country, when such cases amount, according to the French law, to a contraven-

tion, a delict or a crime, these latter being reserved for the French courts; they cannot pronounce sentence of death. And, lastly, appeals lie from the decisions of the cadis to the Royal Court at Algiers.

The natives are presumed generally to have contracted, as between themselves, according to the law of the country. All contestations among the natives relative to the civil *status* are to be decided conformably to the religious law of the parties.

The cadis draw up all deeds and other acts wherein Mussulmans alone are concerned. Registers are to be kept of all the decisions of the cadis, which are to be submitted every month to the inspection of the attorney-general. Mussulman assessors are attached to the French tribunals, to assist and sit with the French judges; there are four for Algiers, and two for each of the towns of Bona, Oran, and Philippeville-Stora.

There is a Hanefite mufti and a Hanefite cadi for the Turks and their descendants (Coulouglis), and a Malekite mufti and a Malekite cadi for the Moors, Arabs and Kabyles.

Jewish tribunals.

2. THE JEWISH TRIBUNALS. The rabbins of each locality are called on to give in their written opinions relating to the civil state, marriages and divorces among their countrymen; and they also decide on infractions of their religious law, provided that such infractions do not constitute, according to the French law, a crime, a delict or a contravention.

STATE OF THE COLONY OF ALGIERS.

TABLEAU DE LA SITUATION DES ÉTABLISSEMENS FRANÇAIS DANS L'ALGÉRIE, &c. 4 parts, 4to. Paris, 1838—44.

A very important statistical work relating to Algeria, published by order of the minister at war in France. There are numerous fine maps. The following are some of the chief subjects treated on in this work.

Part 1. An historical compendium of the events which have occurred in the colony since the beginning of the French occupation; descriptions of the parts or places both occupied and unoccupied by the French; an account of the works undertaken by the French for the improvement of the colony.

Part 2. The government of the regency under the Deys; the organization of the government and administration from the time of the conquest of the country; the religion of the Jews; the religion of the Mahometans, and the administration of justice among them; Mussulman hospitals; an ordinance dated the 10th August, 1834, for the organization of courts of law for the colony; the rights of property among the Mussulmans; the cultivation of the soil; the forests, markets, population; the commerce of the country before the conquest; an ordinance dated the 11th November, 1835, touching the navigation and the custom-house regulations of Algeria; the coral fishery, weights, measures, money, taxes, the domain.

Part 3. Historical account of events from October, 1837, to December, 1838; the organization of the province of Constantina under the Turks, and the present organization of the same province; an ordinance dated the 31st October, 1838, concerning the organization of the civil administration; state of the administration of justice in

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1838; public education; price of labour in Algeria; markets, trading, &c.; useful remarks on the laws, religion, manners and customs of the natives of Algeria; rights of property among the Mussulmans; organization of the public worship of the Mussulmans; organization of the tribes.

Part 4. An historical compendium of events from December, 1838, to December, 1839; statistical accounts and tables of the population, hospitals, &c.; the administration of justice in 1839; an ordinance dated the 21st August, 1839, concerning the organization of a system of finance; registration, stamps, inscriptions of mortgages; the government domain, the colonial domain, the sequestered domain, the property of corporations; woods and forests; commerce and the customs; the *Djehad*, or sacred war of the Mussulmans; the Arab administration in the province of Oran from May, 1837 [this contains a very minute account of the various tribes in the province]; the road from Algiers to Oran; the Roman roads in Numidia and Mauritania; the ancient Spanish domination, beginning in 1509; the fortresses on the northern coast of Africa, belonging to Spain.

The compiler of this Catalogue understands that some other parts of this work have been published; he has only seen the four parts which are noticed above.

PICHON'S ALGIERS.

ALGER SOUS LA DOMINATION FRANÇAISE; son état présent et son avenir. Par M. le Baron Pichon, Conseiller d'État, ancien Intendant Civil à Alger. 8vo. Paris, 1833.

This book contains much useful information on the important colony of Algiers during the year 1830—32. The author, Baron Pichon, was the *intendant civil* at Algiers the first six months of the year 1832. The work is divided into two books, which are subdivided into chapters. The first book treats of the government of the colony generally till the year 1832 inclusively; the second book treats of the interior administration of the country. At the end of the second book are forty-six important documents, styled *pièces justificatives*. There are also maps and notes. The third chapter of the second book treats of the administration of justice in respect both of the French and the natives. The 18th document contains the names (in alphabetical order) of the streets of Algiers, with the new names given to them by the French; the 27th, 28th, 29th and 30th documents relate to the organization and the administration of justice as then existing in Algiers. The 45th and 46th documents are lists of the decrees, &c. promulgated in Algiers in 1830, relating to the administration of justice.

WORMS'S PROPERTY IN MUSSULMAN COUNTRIES.

RECHERCHES SUR LA CONSTITUTION DE LA PROPRIÉTÉ TERRITORIALE DANS LES PAYS MUSULMANS, et subsidiairement en Algérie. Par M. Worms. 8vo. Paris, 1846.

Researches on the Laws respecting Landed Property in Mussulman States, and particularly in Algeria. In the introduction the author shows the great

misapprehensions of the French authorities in Algiers concerning the subject-matter of this publication; and he also shows how the natives have done all in their power to keep their new conquerors in ignorance of the subject. The work is divided into two parts, which are subdivided into sections or chapters. The first part is headed, "Of the ownership of lands of *grande culture*;" the second treats of the laws affecting the ownership of lands in Algeria. There is an introduction and notes. The subjects treated on in the two parts are as follows:—

Part I.—Section 1. OF THE NATURE AND SOURCES OF THE MUSSULMAN LAWS.—This section contains headings and extracts from the following works:—1. The "*Moulteka-el-Ebhour*," or confluence of seas; 2. The "Manual of Cadis," by the Sheik Ebn-Selmoûn.

Section 2. An examination of the legislative regulations concerning taxes; military law; the bringing of lands into cultivation, and their appropriation. This section contains copious extracts from the following works:—1. Hamilton's translation of the "*Hedaya*" (a commentary on the Mussulman law), printed at London in 4 vols. 4to. 1791; 2. Mouradja d'Ohsson's "*Tableau de l'Empire Ottoman*," printed at Paris in 7 vols. 8vo. 1787—1821; 3. The book of Sidi Krelil, and Abd-el-Baqui's commentary on it; 4. The Commentaries of Namy; 5. The "Book of the Royal Commands," by the Sheik Ebou'l Hassan El-Mawerdi; 6. The works of Ibn Djemaat, and some others.

Section 3 treats of the fundamental principles of the laws of landed property in Persia, India, Egypt, and Turkey.

Section 4 treats of miscellaneous matters, as taxes, the manners, customs, prejudices, &c. of the inhabitants of the East.

Part II.—Chapter 1 treats of the political organization of the Algerine regency; of the taxes and revenues; of the monies and weights and measures; of the system of ownership of land under the Turks, and also under the French.

Chapter 2. Of landed property in the interior and round the *centres de population*, in Algeria and the Mussulman countries; of the ownership of property, &c. in towns and their immediate neighbourhoods; of the French establishments in Algeria, and remarks thereon; of the *wakf* or *habous*; of the nature of landed property within and around towns; of waste or uncultivated lands; of the *ana*; of *wakfs*; of the vicissitudes of landed property in Algeria, since the conquest of the country by the French.

Vincent's *Etudes sur la Loi*, &c.

M. P. Vincent has written a work on Mussulman law, entitled *Etudes sur la Loi Mussulmane (rit Malek), Législation Criminelle*, which was published at Paris, in 8vo. 1843.

Since the preceding sheets were printed, the compiler has seen the volumes of the *Bulletin des Lois* for the years 1846—7; and he has the following additions to make in respect of the courts of law, &c., of Algeria:—

Additional civil chamber.

By a royal ordinance dated the 26th July, 1846, a second civil chamber is added to the tribunal of first instance at Algiers. It is composed of a vice-president, three judges, and a substitute.

Municipal administration.

By another royal ordinance, dated the 28th September, 1847, a municipal administration was organized in Algeria, whereby mayors and *adjoints* are appointed in *communes* containing 3000 inha-

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bitants and upwards. The municipal councils are to consist (exclusively of the mayors and *adjoints*) of a certain number of counsellors,—in some *communes* of six; in others of eight; in Algiers, sixteen. The members are to be Frenchmen. Natives may be counsellors in certain cases. The mayor presides in the municipal council. The second title of the ordinance (which is divided into two titles) defines the functions of the mayors and municipal counsellors, and other matters connected therewith.

SENEGAL OR SENEGAMBIA AND ITS DEPENDENCIES.

SENEGAL.

According to French authors, the earliest European settlers in this part of the world were some merchants of Rouen and some mariners of Dieppe, who began in 1365 to erect factories on the western coast of Africa, between the mouth of the Senegal and the extremity of the Gulf of Guinea. From this period may be dated the French establishments on the Senegal, the Gambia, at Sierra Leone, and on the coast of Malaguette (which took the name of Little Dieppe and Little Paris), and the erection of French forts at La Mine d'Or on the coast of Guinea, at Acra and Cormentin.

The principal objects of barter were, on the part of the natives, hides or leather, ivory, ostrich feathers and gold dust; and, on the part of the settlers, brandy, cloths, knives and glass beads.

In the course of the fifteenth and sixteenth centuries, all these establishments (except that on the Senegal) became the prey of the Portuguese, Spaniards and other nations.

In the early part of the seventeenth century, the French commerce in these parts began to revive, and about the year 1664, it was in the hands of a company of Rouen and Dieppe merchants, who managed their factories, &c. through the medium of certain directors, and without any direct intervention on the part of the mother country.

West India Company, 1664.

In 1664, the merchants sold their factories and interest in the commerce of those parts, for 150,000 *livres Tournois*, to the French West India Company, which had just then been established, and had obtained a grant of the monopoly, for forty years, of all the commerce on the coast of Africa from Cape Verde to the Cape of Good Hope.

This company was compelled, by a decision of the king's council in 1672, to sell all their property and interest; which they did to another company, in 1673, for the sum of 75,000 *livres Tournois*, with the reservation for thirty years of a quit-rent of a gold mark or its value in ambergris. The purchasers were a new company, who afterwards obtained letters-patent conferring on them the title of the "Senegal Company," with the exclusive privilege of trading for thirty years to the Senegal, the river Gambia, and other places on the African coast, from Cape Verde to the Cape of Good Hope. This new company soon formed extensive establishments.

First Senegal Company, 1679.

About this time, the Dutch possessed on the African coast the island of Goree and the factories of Rufisque, Portudal and Joal, as well as Arquin and Portendick. In 1667, the French took these five factories and places from the Dutch, and the possession of them was confirmed to the French by the treaty of Nimeguen, in the following year. In the same year (1667), the French caused their right to the isle of Goree and the three factories to be confirmed by the

princes of the country; and in 1679, they obtained a grant of a tract of coast extending from Cape Verde to the river Gambia, and being six leagues in breadth.

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The company, being ruined by the war with Holland, was forced, in 1681, to sell its rights and interest for 1,010,015 *livres Tournois* to a new company, called the "Senegal Company of the Coast of Guinea and Africa." This latter company obtained in the same year a commercial monopoly for thirty years. A portion of this conceded right and territory (namely, the coast between Sierra Leone and the Cape of Good Hope) was afterwards granted to another company, established in 1685, under the name of the "Guinea Company." This company assumed the title of the "Company of the Assiento," and existed till the end of 1719. This severance of their interest and property, the losses occasioned by the war, and other unfavourable circumstances, compelled the second Senegal Company, in 1694, to dispose of their establishments and the remaining interest in their monopoly, for 300,000 *livres Tournois*, to a new company, which was formed in that year, and which obtained an extension of the monopoly to thirty years. This new company was called the "Royal Company of Senegal, Cape North and the Coast of Africa." The ill success of this company forced them, in 1709, to sell their interest, for 240,000 francs, to another Senegal Company established in that year, and which obtained a grant of the extension of the monopoly for thirteen years beyond the seventeen which were then unexpired. The third Senegal Company had, in the year 1698, erected a fort at Galam, on the Gambia.

Second Senegal Company, 1681.

Guinea Company, 1685.

Third Senegal Company, 1694.

Fourth Senegal Company, 1709.

In 1718, the India Company, which had just then been definitively established, bought of the Senegal Company, for 1,600,000 *livres Tournois*, all its property and interest; and by two edicts, dated in 1720 and 1725, this company's commercial monopoly on the coast of Africa from Cape Blanc to Sierra Leone, and also on the coast from Sierra Leone to the Cape of Good Hope, was made perpetual. This new company erected new factories and forts on the coast and in the interior of the country. In 1758, the English seized on the French settlements on the Senegal, and also on Goree; the latter was restored at the peace in 1763, but the former were retained by England. In 1779, the French recovered the settlements on the Senegal by force of arms, and at the peace in 1783 were confirmed in the possession of them. By virtue of the treaty of peace of this latter year, which (with the treaty of 1814) still regulates the rights of England and France in respect of their establishments on the coast of Africa, France recovered her exclusive right over the Senegal, the forts of Saint-Louis, Podor, Galam, Arguin and Portendick, the isle of Goree and the factory of Albreda, situate at a small distance from the mouth of the river Gambia; and the possession of that river, as well as of Fort James, (situated higher up the river than Albreda,) was secured to England, together with certain privileges in respect of the gum trade. The coast extending from the left bank of the Gambia and the coast of Sierra Leone, was left free to all nations, together with the right of forming establishments in such places as were unoccupied.

India Company, 1718.

From the year 1783, Senegal was ruled by governors appointed by the king; and Goree was also ruled by similar governors, from 1763 to 1779.

In 1784, the monopoly of the gum trade was granted by the king for nine years to the Guyana Company. At the end of the year 1785, this monopoly was ceded to a company of merchants, who assumed the title of the "Gum Com-

Guyana Company, 1784.

Gum Company, 1785.

COLONIAL LAWS.

SENEGAL.

Fifth Senegal Company, 1786.

pany," and afterwards (in 1786) changed the name for that of the "Senegal Company." The expenses of the establishments in the Senegal, which had been defrayed for some short time by the government, were now cast on the gum company, who obtained by way of set-off the exclusive trading in negroes, and the extension of the monopoly for the further period of three years; and in 1789, the extension of its commercial monopoly on the coast between Cape Verde and Cape Tagrin.

In 1791, the *Assemblée Constituante* abolished this last company, and declared that the commerce of the Senegal should be open to all Frenchmen alike. The war, which broke out shortly after this period, utterly ruined the French establishments in Africa. Goree was taken by the English in 1800, and the factories of Rufisque, Joal, Portudal, Bissao, Gambia, and Widah were forsaken. By the treaty of peace signed at Amiens in 1802, all these possessions, except Goree, were restored to France. The French, however, took forcible possession of this isle in 1804; but it was almost immediately afterwards retaken by the English; and in 1809, the settlements on the Senegal also fell into their hands.

The treaty of Paris in 1814 restored to France, without any reservation, all the establishments which that kingdom possessed on the 1st January, 1792, on the coast of Africa.

Four principal nations divide the vast territory on which the French have formed settlements on the western coast of Africa; namely, on the left bank of the Senegal are the Yollofs, the Foulahs (called, by the French, Peuls or Foules), and the Mandingos; on the right bank are the Trarzas, Braknas, and Dowiches (all Moors).

In 1819, a treaty was entered into with the king and head people of Wolli (Walo), by virtue of which the island and other lands of Wolli, wherever the French should think proper to form establishments, &c. were ceded to France, she giving yearly certain presents. In the same year, another similar treaty was entered into with the king of the tribe of Braknas (Moors). The chief place of the colony was at first on the *plateau* of Dagana, on the left bank of the Senegal.

In 1821, two other treaties were entered into with the Trarzas and Braknas (Moors); by the first of which the Trarzas ceded all their rights over Wolli to the French; and by the second, the Braknas yielded to the French such of the lands of the country of the Braknas as they might think proper to retain for the purpose of forming establishments and erecting forts, &c.

A station (*escale*) was soon after (in 1821) established in the country of the tribe of Dowiches (Moors), near Bakel, a French settlement. Commercial and other treaties were entered into with one of the sheiks of the Trarzas in 1824, with the chiefs of the peninsula of Cape Verde in 1821, and with the negroes of Gandiole in 1826.

In 1827, hostilities were begun against the French by the Yollof negroes and some of the Trarzas; but peace was restored in 1829. Hostilities again took place with the Trarzas in 1833; but peace was finally restored in 1835. By the treaty of peace made on this occasion, the king of the Trarzas formally renounced for himself, his descendants and successors, &c. all right to the crown of Wolli, &c.; and since this period the French colonists have been but little molested. Copies of some of these treaties, and lists of others, will be found at p. 176 of the third part of the *Notices Statistiques sur les Colonies Françaises*, &c., already referred to.

SENEGAL.

The judicial organization of Senegal and its dependencies is at present regulated by a royal ordinance, dated the 24th May, 1837. The settlements on the banks of the Senegal have a court of appeals at St. Louis; two courts of assize, the one at St. Louis, and the other at Goree; two tribunals of first instance, the one at St. Louis, and the other at Goree; two police tribunals, the one at St. Louis, and the other at Goree.

Courts of law.

THE COURT OF APPEALS is composed of the governor of the colony, who is honorary president, but whose presence in court is not necessary; a vice-president, who is a counsellor, the *ordonnateur*, the colonial inspector, the captain of the port, the treasurer, and two notable inhabitants. The second judge of the tribunal of first instance performs the functions of the *ministère public*, and the office of registrar is filled by the registrar of the tribunal at St. Louis.

Court of appeals.

This court hears appeals, in the last resort, from the courts of first instance of St. Louis and Goree in civil, commercial, police and correctional matters, and in those relating to the customs; and takes cognizance of appeals for the annulling of the decisions, in the last resort (in certain cases), from the tribunals of police. Appeals lie from this tribunal to the court of cassation in the mother country.

THE ASSIZE COURT at St. Louis. This court is composed of seven members, namely, the vice-president of the court of appeal, who is president; the chief surgeon of the *service de santé*, the captain of the port (or, if he cannot attend, the treasurer), and three assessors. The registrar of the tribunal of first instance at St. Louis acts as registrar in this court.

Assize courts.

THE ASSIZE COURT at Goree is also composed of seven members, namely, the vice-president of the court of appeal, who is president; the commander at Goree, the administrator of the marine, the senior surgeon, and three assessors. The registrar of the tribunal of first instance at Goree performs the functions of registrar in this court.

The assize courts take cognizance of all matters for which a corporal or degrading punishment may be inflicted. Appeals lie from the decisions of these two courts, and may be brought before the court of cassation in the mother country.

THE TRIBUNAL OF FIRST INSTANCE at St. Louis is composed of a president, a second judge, four notable inhabitants, and a registrar. The second judge fulfils the office, in certain cases, of king's attorney. The tribunal at Goree is composed of the commandant (who is president), two notable inhabitants, and a registrar.

Tribunals of first instance.

These courts adjudicate, in the last resort, on matters not exceeding one thousand francs in value; and in the first instance only, when the subject-matter of the demand exceeds one thousand francs. The presidents of these tribunals are also empowered to perform such tutelary acts as are within the jurisdiction of justices of the peace in the mother country, and also such acts as are within the jurisdiction of the presidents of commercial tribunals there. They also perform the functions, within their respective jurisdictions, of *juges d'instruction* in regard to delicts or misdemeanors; but with regard to crimes, the *instruction* is ordinarily reserved to the president of the court of first instance at St. Louis, for all the settlements. Each of these courts is also a correctional tribunal (subject however to appeal) in respect of delicts punishable by an imprisonment of more than five days, or by a fine exceeding fifteen francs.

COLONIAL LAWS.

SENEGAL.

The tribunal of St. Louis decides definitively, as a *chambre de conseil* on the *mises en accusation*, for all the settlements. These tribunals conform to the regulations of the *Code d'Instruction Criminelle*, as applied to the colony by the royal ordinance of the 14th February, 1838.

Tribunals of police.

THE TRIBUNAL OF POLICE at St. Louis is composed of the president of the court of first instance (*jugeant seul*); the second judge, performing the functions of the *ministère public*; and the registrar, *tenant la plume*.

The police tribunal at Goree is composed of the particular commandant (*jugeant seul*); the colonial inspector of Goree, performing the functions of the *ministère public*; and the registrar of the tribunal of first instance, *tenant la plume*.

These two tribunals take cognizance of contraventions of police regulations, as defined by the fourth book of the Penal Code and by the *Code d'Instruction Criminelle* (modified so far as regards this colony). An appeal lies from their decisions, when a sentence of imprisonment is pronounced.

Privy council.

There is also a privy council in this colony to assist the governor. It is composed of the governor (who is president), the officer who has to perform the duty of *ordonnateur*, the officer commanding the infantry, the counsellor who is vice-president of the court of appeal, the colonial inspector, and a notable inhabitant. The governor may also call other persons to this council. Its functions are similar to those of the other privy councils in the colonies. When it is constituted a council of the *contentieux administratif*, appeals from its decisions may be brought before the council of state.

Commercial committee.

There is a committee of commerce at St. Louis, which was created in 1825; it is composed of twelve members (merchants and notable inhabitants), a captain of a ship, and the *ordonnateur* of the colony. There is also a commercial commission at Goree, which was created in 1834; it is composed of a president and six members.

Senegal, with its dependencies, is divided into two *arrondissements*; the first, that of St. Louis, comprises the Island of St. Louis (the capital of the colony) and the neighbouring islands, the various establishments along the Senegal, the places of traffic for the gum trade, and that part of the coast which is situated between Cape Blanc and the Bay of Yof, the extreme southern point of which is formed by the peninsula of Cape Verde. This *arrondissement* also includes the stations or settlements of Richard-Tol, Dagana, and Bakel. The second *arrondissement* comprises the Island of Goree, and all the coast from the Bay of Yof to the parts where the French commerce may be extended to the south, and includes the settlements or posts of Albreda and Seghiou.

Collection of Edicts, &c.

RECUEIL DES ÉDITS ET DÉCLARATIONS concernant les Compagnies de Guinée et du Senegal. 4to. Paris, 1754.

A Collection of Edicts and Declarations concerning the Guinea and Senegal Companies.

ISLE OF BOURBON.

This island is situated in the Indian Ocean, to the east of Madagascar and to the west of the Mauritius. It was discovered, about the year 1545, by some Portuguese mariners under the conduct of their chief, named Mascarenhas, and

was called Mascarenhas (in French Mascareigne) after his name. The Portuguese did not, however, form any establishment in this island.

In 1642, M. de Pronis, an agent of the French East-India Company at Madagascar (and, as some authors state, the first commander of Fort-Dauphin, in Madagascar), took possession of the island in the name of the king of France. In 1649, M. de Flacourt, his successor as agent, again took formal possession of the island in the usual manner, and changed its name into that of Bourbon. In 1664, Louis XIV. having granted the Island of Madagascar and its dependencies to the French East India Company, twenty workmen, under the conduct of Regnault, were sent by the company to colonise the Isle of Bourbon, which was then probably looked on as a dependency of the settlement in Madagascar. In 1671, a formal grant of this isle was made to the company by the French government. After the massacre of the French by the natives at Fort-Dauphin about 1671, a number of those that escaped came and settled in the island; and in 1688, large grants of land were made to various new comers.

About the year 1710, after the company had given up all thoughts of further proceedings in respect of Madagascar, they began to think of establishing a more regular form of government for the Isle of Bourbon than had previously existed. A governor was appointed, with a council to assist him. The members of this council were also members of the provisional council, the only tribunal which was established on the island. This tribunal was created in 1711, and from it appeals were brought to the sovereign council of Pondicherry, the chief place of the India Company's settlements.

About the year 1712, some French colonists had settled in the Island of Maurice (the Mauritius, or Isle of France), which is situated about thirty-five or thirty-six leagues to the east of the Isle of Bourbon. This small colony was composed of Creoles and volunteer soldiers, chiefly from the Island of Bourbon. As the latter island had no port, and the former a very good one, the attention of the governor of the Isle of Bourbon was specially directed to this convenience. This new colony had made such progress, that in 1735 the Mauritius became the seat of government for the two isles.

In 1764, the two isles were given up to the king, who confided the administration of them to a governor and an intendant, whose respective jurisdictions were fixed by an ordinance of the 25th September, 1766. The Isle of France was the seat of the two administrations.

By virtue of some decrees of the National Assembly in the mother country, promulgated in 1790, a colonial assembly was established in this colony, which quickly arrogated all power to itself, reserving to the governor nothing but the power of sanctioning the decrees of the assembly. This assembly enacted many criminal laws, organized new judicial and municipal institutions, introduced the jury system into the island, and adopted generally the improvements in this respect made in the mother country. The governor of the Island of Bourbon was deposed, and a commission, consisting of eleven individuals, was named to watch over a committee of three other individuals, to whom was left the administration of affairs. For thirteen years this colony governed itself,—received ambassadors from Tippoo Saib, and sent him assistance.

In 1803, the government of the colony was given to General Decaen, who was appointed captain-general of the French possessions beyond the Cape of Good Hope. A commandant and a sub-prefect were appointed for the Isle of Bourbon, and the colonial assembly then discontinued its functions.

COLONIAL LAWS.

BOURBON.

In 1810, the two islands fell into the hands of the English. At the peace in 1814, Bourbon was restored to France; but the Mauritius remained part of the English dominions.

In the early part of the French revolution, the name of the Island of Bourbon was changed into that of the "*Isle de la Réunion;*" and in later times it was called "*L'Isle Bonaparte*" and "*L'Isle Napoléon.*" In February, 1848, the name of the "*Isle de la Réunion*" was again conferred on it by the provisional government in the mother country.

Courts of law.

The judicial organization and the administration of justice in this island are regulated by a royal ordinance, dated the 30th September, 1827, modified and amended by other royal ordinances, dated the 6th July and 19th October, 1828, the 11th April, 1830, the 10th July, 1831, the 24th April, 1833, the 17th July, 1845, and the 23rd August, 1846.

The courts of law in this island are as follows:—1. A royal court, which sits at St. Denis, the capital. 2. Two courts of assize, one of which sits at St. Denis, and the other at St. Paul (the capitals of the two *arrondissements* into which Bourbon is divided, and which are called the windward *arrondissement* and the leeward *arrondissement*). 3. Two tribunals of first instance, one of which sits at St. Denis, and the other at St. Paul. 4. Eight tribunals of justices of the peace, one for each of the eight cantons into which the island is divided. The competency of these several tribunals is regulated by the organic ordinance of the 30th September, 1827.

Royal court.

THE ROYAL COURT is composed of eight counsellors, one of whom is president; three counsellor-auditors, an attorney-general and two substitutes; a registrar, and a sworn registrar's clerk.

Assize courts.

THE ASSIZE COURTS. Each of these courts comprises the jurisdiction of the tribunal of first instance belonging to one of the two cities, and is composed of three counsellors of the royal court and four members of the college of assessors.

Tribunals of first instance.

THE TRIBUNALS OF FIRST INSTANCE. One of these tribunals has within its jurisdiction the windward *arrondissement*, whose capital is St. Denis; and the other, the leeward *arrondissement*, whose capital is St. Paul. Each tribunal consists of a royal judge (St. Denis has a deputy), a judge auditor (St. Denis has two), a king's attorney and two substitutes, a registrar, and a sworn registrar's clerk.

Justices of the peace.

JUSTICES OF THE PEACE. Each canton has a tribunal of justices of the peace, which consists of a justice and a registrar.

Other tribunals.

There are moreover in this colony a colonial council, a privy council, a commission for prize law, and councils of war. The composition and jurisdiction of the first of these councils are much the same as those in Martinique and Guadaloupe. The jurisdiction of these four several councils, &c. is fixed by a royal ordinance, dated the 21st August, 1825.

The colonial council sends two delegates to Paris.

There is also a chamber of commerce, which has superseded the *bureau de commerce* formerly established in this colony; it is composed of the mayor (who is president when he attends the meetings), six members chosen from among the principal merchants, and an agent.

By a royal ordinance dated the 9th August, 1847, a criminal tribunal for trying free persons accused of crimes committed against slaves, and slaves accused of crimes committed against free persons, was established in each of the

colonies of Bourbon, Martinique, Guadaloupe and French Guyana; it is composed (in each colony) of seven magistrates, namely, the counsellors, *titulaires* of the royal court, the counsellor-auditors, and of the royal judges, if they should be needed.

Legislation of the Isles of France and Bourbon.

LÉGISLATION POUR LES COLONIES de l'Isle de France et de Bourbon. 4to. Isle de France, 1768.

The Legislation of the Isles of France and Bourbon.

CODE DES ISLES DE FRANCE ET DE BOURBON, par M. De Laleu, avec deux Suppléments. 4 vols. 4to. Isle de France, 1777—87.

A Collection of the Laws, &c. of the Isles of France and Bourbon.

CODE DE L'ISLE DE FRANCE depuis le 1er Vendémiaire an 12 jusqu'en 1823. 5 parts. 4to. Ile de France, 1808—23.

A Collection of the Laws, &c. of the Isle of France, from the 22nd September, 1804, to 1823.

LÉGISLATION DE L'ISLE BOURBON, Répertoire raisonné des Lois, Ordonnances, Décrets, Règlements, Arrêtés en vigueur dans cette Colonie, &c. par Delabarre de Nanteuil, Docteur en Droit, &c. 3 vols. 8vo. Paris, 1844.

A Digest of the Laws and Jurisprudence of the Isle of Bourbon, by Delabarre de Nanteuil, a Doctor of Laws, &c.

Legislation concerning slaves.

The most recent ordinances and other enactments concerning the religious instruction, the treatment, &c. of the slaves in the French colonies, are the royal ordinances of the 18th July, 1845, the 18th May, 4th and 5th June, 1846, the 9th August, 1847. An act of the provisional government of France, dated in March, 1848, declared all the slaves in the colonies of France to be freemen.

There is a government publication of the laws affecting this colony, which is printed in the colony, and issued every month; it is called the "*Bulletin Officiel de Bourbon.*"

MADAGASCAR.

This island is situated at the entrance of the Indian ocean and to the south-east of Africa, and was discovered by the Portuguese in 1506, who however formed no settlement in it. About the year 1644 the French formed settlements or factories on the eastern coasts, and in that year they erected Fort-Dauphin, which became the capital of the eastern possessions of the India Company (first established in 1624, and re-established by Colbert in 1664), and had a governor-general and a sovereign council. And between the years 1664 and 1667, the India Company sent to Madagascar a colony of about 2000 persons, comprising soldiers, cultivators of the soil, magistrates, traders, &c. who landed at Fort-Dauphin.

COLONIAL LAWS.

MADAGASCAR.

These settlements were abandoned and re-occupied several times between the years 1644 and 1786. In the year 1774, Baron Benyowski formed some settlements, at a vast expense, in the bay of Anton-Gil, which comprised the port of Manazar, Marancette or Port-Choiseul, Louisbourg and the isle Marosse; but no permanent occupation of any part of the island was made by the French, after the massacre of the whites by the natives in 1671.

Some short time previously to the Revolution, the French had a commercial agent, and a few ports or trading places, with a few soldiers for their protection, furnished by the garrison of the Mauritius.

During the wars of the Revolution, these ports were fixed or concentrated at Tamatave and Foul-pointe, and in 1811 they fell into the hands of the English, who destroyed the forts of the French factories, and abandoned the country to the natives.

In 1814, the treaty of Paris restored to France all her rights over the island of Madagascar; and in 1818—19, the French government formally took possession of the island of Sainte-Marie, Fort-Dauphin and Ste. Luce, and placed them under the authority of the isle of Bourbon.

The isle of Sainte-Marie, which lies to the east of Madagascar, was ceded by deed to the India Company, or rather to the King of France (Louis XV.), in 1750, by Queen Béti. A copy of this document will be found in the important work, from which much of the information concerning the French colonies has been gathered by the compiler of this Catalogue, entitled *Notices statistiques sur les Colonies Françaises*, &c., and which is noticed in this Catalogue.

In 1821, an expedition was fitted out in France for the purpose of colonizing the isle of Sainte-Marie, and of securing the port of Tintingue; it was composed of persons comprising, besides the *personnel civil*, a company of sixty officers and workmen (military), and six volunteer colonists. But in 1822, Radama, chief of the tribe of the Ovahs, began hostilities with them, and seized on Foul-pointe, the ancient capital of the French settlements in Madagascar; and in 1825 he got possession of Fort-Dauphin (built on a tongue of land called Tholongar), and burnt the villages of Fondaraze and Tintingue.

To put an end to these vexations, the French government fitted out an expedition in 1829, consisting of six vessels, which contained between 500 and 600 men, and arrived on the 9th July of that year in the roadstead of Tamatave; and on the 2nd August, possession was again taken of Tintingue, which was garisoned by 400 men. Hostilities were still carried on after this, and in 1831 the French evacuated Tintingue.

The Isle of Ste.-Marie and the other French settlements in Madagascar are dependencies of the Isle of Bourbon, and are administered according to the royal ordinance dated the 21st August, 1825, concerning the Isle of Bourbon; and the laws and ordinances which govern that isle also govern these dependencies.

Courts of law.

By a royal ordinance dated the 26th August, 1847, there were established in the Island of Mayotte:—1. A council of justice; 2. A civil tribunal; 3. A correctional tribunal; 4. Native and mixed tribunals.

Council of justice.

THE COUNCIL OF JUSTICE is composed of the *commandant du génie*, who is president; the officer of administration *chargé du service*, the officer commanding the detachment of artillery, the infantry officer of the highest rank, and the infantry officer the most ancient in rank, and the colonial controller. This court decides, in the last resort, on all cases of rebellion and seditious attempts on the safety of the colony. The penalties are the same as those in the mother country.

THE CIVIL TRIBUNAL is composed of the *commandant supérieur*, who is president; the officer of administration *chargé du service*, and the treasurer. It takes cognizance of all matters in dispute, except those wherein the parties are all natives. The civil laws of the mother country, modified by the royal ordinance, are to be applied by this tribunal. Civil tribunal.

THE CORRECTIONAL TRIBUNAL is composed of the *commandant du génie*, who is president; the treasurer and the controller. It takes cognizance of delicts or misdemeanors committed by the natives to the injury of the French and foreigners, and of those committed by the French and foreigners against one another or against the natives. The penalties to be inflicted by this tribunal are those which are mentioned in the Penal Code, modified by the law of the 28th April, 1832, and by various royal ordinances. Correctional tribunal.

THE NATIVE AND MIXED TRIBUNALS.—All crimes and causes wherein natives only are concerned are to be decided by the native tribunals and laws; appeals in civil matters may, however, be brought before the French tribunal. In cases of appeal, &c. the French tribunal is to be assisted by two notable Arabs or *Sakalves*, or of one Arab or *Sakalve*, according to the race of the parties; and it may also be assisted by a Cadi. Two native notables are to be added to the tribunal, and to have votes, when a cause is between a Frenchman or a foreigner on the one part, and a native on the other,—and when in a correctional matter one of the parties (or *prévenus*) is a native. Native and mixed tribunals.

With respect to crimes committed by Frenchmen, or foreigners, or natives, against the property of Frenchmen or foreigners (excepting cases of rebellion and seditious attempts on the safety of the colony), they are to be brought before the tribunals in Bourbon. Criminal causes between natives may also be brought (on the request of the native tribunals) before the same tribunals. Appeals may be brought by Frenchmen and foreigners before the royal court in Bourbon for civil and correctional matters, provided that in civil causes the subject-matter in dispute exceed the value of 500 francs. Infringements of police regulations may be punished by a fine not exceeding 200 francs, or an imprisonment of a fortnight.

The commanders of the smaller and dependent islands are invested with certain powers in respect of discipline and police regulations. They may send criminal, correctional or civil cases before the tribunals of Mayotte or Bourbon.

In other respects the administration of justice among the natives by their own tribunals remains as before.

There is a council of administration at Mayotte.

A work on the French establishments in Madagascar and its dependencies was published at Paris in 1836, by order of Admiral Duperré, the minister of the marine and colonies; the title of the work is "*Précis sur les Établissements Français formés à Madagascar*," &c.

POSSESSIONS IN ASIA.

It would seem, that, during the early part of the sixteenth century, repeated attempts had been made by divers Frenchmen to form commercial establishments in India, but without success.

In 1624, a company was formed in France for the purpose of establishing a commerce with India, which was styled the Company of the East-Indies (*Com-* East-India Company, 1624—64.

COLONIAL LAWS.

Asiatic or Indian Settlements.

pagnie des Indes Orientales). This company was remodelled, or rather created anew, by Colbert, in 1664, and was to have the exclusive monopoly of the commerce with India for the term of fifty years. Great activity was displayed by this company on its being remodelled, and attempts were made to renew the colonization of Madagascar; but these efforts proving unsuccessful, the company directed their attention principally to the commerce with India.

In 1668 a merchant, of French extraction, named Caron, being appointed head of the company, selected Surat as the chief place of the French commercial dealings in India. This place not answering his expectations, he made choice of the town of Trincomalee for the same purpose, and took it from the Dutch in 1672, but it was re-taken by them shortly afterwards. Caron, in the same year, went over to the Coromandel coast, and seized on St. Thomas, a Portuguese town, but which was then in the possession of the Dutch. This town was also taken from the French by the Dutch, two years afterwards.

The affairs of the company appear to have been at this period in a bad condition.

At length, in 1683, one of the company's agents, named François Martin, collected together the survivors of the expeditions to Trincomalee and Saint Thomas, and settled with them at Pondicherry, which he had purchased of the sovereign of the country, together with the surrounding tract of land. This colony was soon in a flourishing condition. But in 1693 the Dutch attacked the town, and took possession of it; it was restored however by the treaty of Ryswick in 1697. Two years afterwards Pondicherry became the capital of the French possessions in India.

In 1688, Chandernagore was ceded to the company by Aurungzebe; in 1727 Mahé was also ceded to them; in 1739 the company purchased Karikal, or Carrical, of the king of Tanjore; and in 1732 Yanaon and Mazulipatam also became the company's property.

In 1748, an attack on Pondicherry was made by the English, but the governor (Dupleix) forced them to retire. Under Dupleix's administration, the French power in this part of the world was greatly increased.

The possessions of the French in India, in the year 1758, were as follows:— 1. Pondicherry, with a line of coast in length ten leagues, and nearly ten leagues in breadth, and containing half a million of inhabitants; 2. Karikal, with nearly an equal extent of territory; 3. Mazulipatam, with the Condovir, the Isle of Divy, and the four provinces of Moutfanagar, Ellour, Râjamandri and Chicakol, comprising an extent of country 130 leagues in length, and from 15 to 125 in breadth; 4. The Isle of Séringam, formed by two arms of the river Cavery.

In 1761, the English seized on Pondicherry and the other French possessions; but Pondicherry, with a less extent of country, Mahé, Karikal, Chandernagore, and the other factories in Bengal, were restored to France by the treaty of peace in 1763.

In 1769, the monopoly of the French East-India Company was abolished, and this act contributed greatly to increase the prosperity of these possessions. In 1778, Pondicherry was again taken by the English, as well as the other possessions of the French; but they were restored by the treaty of peace of 1783. In 1793, all these possessions fell into the hands of the English, but were restored to the French by the treaty of peace at Amiens in 1802. In 1803, they were again taken by the English, but were ultimately restored by the treaties of peace in 1814—15.

The present extent of the French possessions in India is in the whole about twenty-six square leagues; the greater part of them are intermingled with the English territories.

Asiatic or Indian Settlements.

By a royal ordinance dated the 7th February, 1842, the tribunals established in this colony are—1. A Royal Court at Pondicherry; 2. Four criminal tribunals, one at Chandernagore, another at Karikal, one at Yanaon, and the other at Mahé; 3. Three tribunals of first instance, one at Pondicherry, another at Chandernagore, and the other at Karikal; 4. Three tribunals of justices of the peace, one at Pondicherry, another at Chandernagore, and the third at Karikal; 5. Two other tribunals, one at Yanaon and the other at Mahé.

Courts of law.

Courts at Pondicherry.

Royal court.

THE ROYAL COURT. This court is composed of five counsellors, one of whom is president; two counsellor-auditors, an attorney-general, a chief registrar, and a sworn registrar's clerk; two *huissiers;* three priests, one of whom is a Hindu, one a Mussulman, and the other a Paria [these are to administer the oaths]; six Indian agents, that is, jailors, servants, &c. It decides, in the last resort, on appeals from the decisions in the first resort of the civil and correctional tribunals, and takes cognizance of matters of discipline, as specified in the ordinance. This court is divided into two chambers, the one of accusation, &c. and the other a criminal chamber.

THE CHAMBER OF ACCUSATION. This chamber is composed of a counsellor of the royal court, of the royal judge, and a deputy, or, in his absence, of the *juge suppléant*, who in that case has a vote.

THE CRIMINAL CHAMBER. This chamber is composed of five magistrates of the royal court, and two notables, selected as mentioned in the ordinance; the attorney-general or his substitute, and the registrar of the royal court.

This chamber takes cognizance of all matters that incur a corporal or degrading punishment; and of appeals from criminal causes decided by the tribunals at Chandernagore, Karikal, Yanaon and Mahé.

Appeals from the decisions of the royal court are brought before the court of cassation in the mother country.

Tribunals of first instance.

The tribunal of first instance at Pondicherry consists of a royal judge, a deputy and a supplementary (*suppléant*) judge, a king's attorney, a registrar and clerk, a *huissier* and six Indian agents.

Justices of the peace.

The tribunal of the justices of the peace consists of a justice of the peace, a lieutenant of police, a supplementary justice, a registrar and clerk, and an interpreter.

There is also at Pondicherry a committee of consultation on Indian law, which consists of a member of the committee who has the task of translating the Indian laws, a registrar and clerk, and an Indian agent.

Courts at Karikal.

KARIKAL. The criminal tribunal is composed of a royal judge, the officer or clerk of administration of the marine *chargé de l'inspection*, and of the officer or clerk of administration *chargé du service*.

The tribunal of first instance is composed of a royal judge, a king's attorney, a registrar, an interpreter, and five Indian agents.

The tribunal of justices of the peace is composed of a justice of the peace (a lieutenant of police), and a writer.

There is a police tribunal at Karikal.

Courts at Chandernagore.

CHANDERNAGORE. The criminal tribunal at Chandernagore is composed of a royal judge, of the officer or clerk of administration of the marine *chargé de l'inspection*, and of the officer or clerk of administration (*chargé du service*).

COLONIAL LAWS.

Asiatic or Indian Settlements.

The tribunal of first instance consists of a royal judge, a king's attorney, a registrar, a *huissier*, an interpreter, and eleven Indian agents.

The tribunal of the justices of the peace consists of a justice of the peace (a lieutenant of police), an assistant judge, a registrar, a Bengalese clerk and an interpreter.

There is a police tribunal at Chandernagore.

The decisions of the criminal tribunals are in the first instance only; appeals from all three tribunals are brought before the royal court at Pondicherry.

The judges of the tribunals of first instance take cognizance, in the first and last resort, of personal actions, &c. to the amount of from 150 to 500 francs; and of real actions, to the amount of 50 francs in income. But in personal actions above 500 francs, and in real actions the value of which cannot be ascertained as above, they decide in the first instance only. The tribunal of Chandernagore, in consequence of its distance from the royal court, decides in the last resort, in personal actions, &c. to the value of 1000 francs, and in real actions, to the value of 50 francs in income.

These tribunals also decide on appeals from the justices of the peace; and as correctional tribunals they take cognizance, in the last resort, of appeals from the police tribunals. They also decide, in the first instance, on the correctional matters specified in the *Code d'Instruction Criminelle*, as well as on contraventions in relation to foreign commerce, indirect contributions, &c. wherein a fine amounting to more than 15 francs is incurred.

The justices of the peace take cognizance, in the last resort, of personal matters, &c. to the value of 75 francs, including disputes between innkeepers and travellers, damages by cattle, and various other causes of dissension, &c. They also take cognizance of contraventions of police regulations.

Tribunals at Yanaon and Mahé.

The Tribunals of Yanaon and Mahé. The criminal tribunals at Yanaon and Mahé are each composed of the head of the factory, who performs the duties of royal judge; and of two notable inhabitants, if they can be procured.

This judge also takes cognizance, in the first and last resort, of all matters within the jurisdiction of the justices of the peace and the tribunals of police, as defined by title 2, chap. 1, of the ordinance of the 7th February, 1842; also of all matters, the cognizance of which in the last resort belongs to the tribunals of first instance at Pondicherry and Karikal. The head of each factory also takes cognizance, but in the first instance only, of all other civil, commercial and correctional matters. The judicial police, the *instruction criminelle*, &c. are managed under the inspection of the attorney-general, by a clerk of the marine. Each of these factories has a registrar, whose duty it is to assist the head of the factory and the clerk of the marine in their respective functions.

The Hindus and Mussulmans in these settlements are governed by their own respective laws and customs.

Recueil des Titres, Édits, &c. concernant la Compagnie des Indes. Par Dernis. 4 vols. 4to. Paris, 1664.

A Collection of Documents, Edicts, &c. concerning the India Company.

There has been issued, since the year 1828, a periodical government publication of laws and other acts affecting these settlements, which is entitled the "*Bulletin des Actes Administratifs des Établissements de l'Inde.*"

COLONIES, &c. IN THE PACIFIC OCEAN.

THE MARQUESAS.

The Marquesas. The Marquesas are islands situated in the Pacific Ocean, and consist of two groups, one of which extends in a north-westerly and the other in a south-westerly direction.

These islands were first discovered, about the year 1595, by Mendaña de Neyra, who gave them the name of "Marquesas," in honour of the Marquess Mendoça de Canete, then viceroy of Peru. The Americans are stated to have made the discovery of the northern group in 1797, to which they gave the name of "Washington's Islands."

The chief islands of the southern group (which consist of five) are Santa Dominica or Hiwoa, Santa Christina or Tahuata, and Hood's Island or Tiboa. The chief islands of the northern group are Noukahivah or Nouhivah, and Uahuga, Uapoa or Roapoa.

The French have taken possession of these islands, and have formed settlements in some of them, and appointed a governor and an administrator.

TAHITI OR OTAHEITI.

Tahiti. This is one of the Society Islands, and is situated in the Pacific Ocean. It was first discovered by the Spaniards in 1606, who gave it the name of Sagittaria. In 1767, Captain Wallis, an Englishman, visited the island, and, treating it as a newly-discovered country, named it King George's Island. In the following year it was visited by Bougainville, who gave the island the name of *La Nouvelle Cythère*. Between the years 1769—78, it was visited several times by the celebrated Captain Cook, who restored its original or native name. Missionaries were sent to the island from England and America. It does not, however, appear that any European power has taken possession of the island. But in the year 1842, by a treaty dated the 9th September, in that year, Pomare, the queen of the Society Islands, placed her dominions under the protection of France. The French shortly afterwards attempted to convert this protectorate into an actual sovereignty, but without success. The island of Tahiti remains now under the protection of France. But by a treaty entered into between the English and French governments, and dated the 19th June, 1847, both the governments renounced all claim to the islands of Huahine, Raiatea, and Borobora, and the small islands adjacent thereto, and declared them to be independent of the island of Tahiti.

NEW ZEALAND.

New Zealand. This is a colony which belongs to England, and consists of two large islands and several smaller ones. The northern island (one of the two former) was anciently called Eaheinomawe, and is now named New Ulster; and the southern island (the other large island) was formerly called Tavai-Poenammoo, and is now named New Munster. These islands are situated in the Pacific Ocean and southern hemisphere. The French have a settlement and a resident at Akaroa, in Banks's Peninsula, which is in the southern island.

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NEW ZEALAND.

The original discoverer of these islands appears to have been a Dutch navigator, named Tasman, who reached the western coast of the great southern island at the end of 1642; and entered the bay by which he reached Cook's Straits, which is called Tasman's Bay, from his name. He then sailed along the western coast of the great northern island as far as the north-west cape, to which he gave the name of Cape Maria Van Diemen. These islands were visited by Captain Cook in 1769, 1770, and again in 1776 or 1777. In 1769, a French ship, under the command of M. Surville, touched at these islands; and in 1772, two other French vessels, under the command of Marion and Crozet, remained some time in the Bay of Islands. These islands were visited also by Vancouver in 1791. The earliest European settlers on them appear to have been some Englishmen and Americans from Port Jackson, who went thither for the sake of the whale fishery. Other individuals, chiefly English, settled on the coasts. In 1838, a French captain, named Langlois, entered into a treaty with some of the native chiefs for the purchase of a portion of territory, in quality of representative of France (as it is stated), and took possession of his purchase in 1840. In the meantime, the English had been purchasing large tracts of land, and in the year 1840, New Zealand was declared to be part of the English dominions.

COLONIES, &c. IN AMERICA.

THE ISLES OF SAINT-PIERRE AND MIQUELON.

These isles are situated in the Atlantic Ocean, five or six leagues to the south of Newfoundland, and at the entrance of Placentia Bay. They are the great places of the French cod-fisheries.

It would appear that the French had formed settlements in Newfoundland in the early part of the sixteenth century, and towards the middle of the same century they had also formed settlements in the Bay of Placentia and the neighbourhood. The chief occupation of the colonists or settlers seems to have been the cod-fishery.

At the beginning of the seventeenth century new settlements were made by the French in Canada and Acadie (New Scotland); and the fisheries were extended to the Gulf of St. Lawrence and Labrador. By the treaty of Utrecht in 1713, the whole of the island of Newfoundland and New Scotland were given up to England; and the right of fishing and drying the fish on a certain extent of coast of Newfoundland (which part was once called the Côte du Petit-Nord), and also at a certain distance from Acadie, was ceded to France. The same treaty guaranteed to France the dominion over the Isle of Cape Breton and all the other isles in the Gulf of St. Lawrence, and at the mouth of that river. As far back as 1541, some Frenchmen had settled at Cape Breton; but that settlement appears to have come to nothing. In 1713, they again took possession of that island, and called it the Royal Island. They built Louisbourg, Fort-Dauphin, and constructed Port-Toulouse. The isles of St. John and Madame-Scutary formed part of the jurisdiction of the Royal Island, which was within the government of Canada. This island fell into the hands of the English in 1743, but was restored to France in 1748.

By the treaty of Paris in 1763, Canada, the island of Cape Breton, and all the other isles and coasts situated in the gulf and river of St. Lawrence, were ceded

to England. All that remained to France, in that quarter of the globe, were the two islands of Saint-Pierre and Miquelon; and even these were held by France under certain restrictions. The same treaty, however, permitted the French to fish in the Gulf of St. Lawrence and in the neighbourhood of the island of Cape Breton under certain restrictions.

In 1764—7, the French first formed fishing-establishments at the isles of Saint-Pierre and Miquelon. Disputes arose afterwards between the English and French as to the right of fishing within certain limits, which were settled about the year 1776. Soon after the breaking out of the American war, the English took forcible possession of Saint-Pierre and Miquelon, and destroyed the buildings, &c. On the conclusion of the war, these islands were again unconditionally restored to France by the treaty of Versailles in 1783, and the limits of the fisheries of the two nations were fixed and determined.

In 1793, after the breaking out of the war between England and France, the former power again took possession of these two islands, but left the buildings (which had been restored) standing. A French squadron, however, destroyed them in 1795. The islands were restored to France in 1802, and were again taken possession of by the English, in the war which broke out in 1803; but were ultimately restored to France by the treaty of peace in 1814, and they are now in the possession of that country. This last treaty also defines the limits of the French fisheries on the coast of Newfoundland and adjacent parts, and contains regulations as to the right of drying the fish, &c.

There are six small islets dependent on Saint-Pierre, namely, *le Grand Colombier, le Petit Colombier, l'île aux Chiens, l'île aux Vainqueurs, l'île aux Pigeons,* and *l'île Massacre.* The island of Miquelon was formerly two islands (called respectively the *Grande-Miquelon* and the *Petite-Miquelon*); but the passage between them has been gradually filled up by the sand driven there by the sea, so that they are now united by a kind of causeway.

Courts of law

By a royal ordinance dated the 26th July, 1833, justice is administered in these isles by tribunals of justices of the peace, a tribunal of first instance, and a council of appeal. This ordinance also regulates the mode of proceeding before the several tribunals. The two islands are divided into two cantons, namely, that of Saint-Pierre and its dependencies, and that of Miquelon and its dependencies. Each canton has a justice of the peace, who resides at the chief place of the canton; he may administer justice without the help of a registrar, and without the *ministère public* in police cases. The justices have jurisdiction, in the first and last resort, in all civil actions to the amount of fifty francs, and in respect of salaries, wages, damages by cattle, &c. to the same amount. The justices also take cognizance of police matters in the cases specified in chap. i. tit. 1, b. 2, of the *Code de Procédure Civile;* and also of such matters as are specified as being within the jurisdiction of the justices of the peace, in the second, eighth and tenth titles of the first book of the *Code Civil,* in the second book of the Code of Civil Process, and in the third book of the *Code de Commerce.* The tribunal of first instance sits at Saint-Pierre; it is composed of a judge (who may also be the justice of the peace at Saint-Pierre), a sworn registrar's clerk, and a *huissier.* This tribunal takes cognizance, in the first and last resort, of civil actions, to any amount between fifty and three hundred francs.

Justices of the peace.

Tribunals of first instance.

The council of appeal (for both isles) sits at Saint-Pierre. When this tribunal sits as a court of appeal, or as an original court in correctional matters, maritime

Council of appeal.

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delicts, &c., it is composed of a president (the judge of first instance, &c.) and a registrar. The office of the *ministère public* is filled by the *officier d'administration*, or the clerk of the marine; the registrar's clerk of the tribunal of first instance *tient la plume* in this court.

When the court sits as a criminal court to adjudicate on matters for which, according to the terms of the Penal Code, a corporal or degrading punishment may be inflicted, it is assisted by four notables of the two isles.

Appeals from this council are brought before the court of cassation in the mother country.

There is a council of administration, which also acts as a council of the *contentieux administratif*. It is composed of the governor, the heads of the *services administratif et judiciaire*, the colonial inspector, a notable inhabitant, and the clerk or writer of the marine. When it acts as a council of the *contentieux administratif*, other persons are added to it.

The principal recent laws and ordinances relating to the French cod-fisheries are dated the 26th April, 1833; the 5th July, 1836; the 2nd September, 1836; the 18th November, 1837; the 8th February, 1840; the 25th June, 1841; the 25th February, 1842; the 24th April, 1842. They will be found in the ninth series of the *Bulletin des Loix*.

MARTINIQUE.

MARTINIQUE.

LA MARTINIQUE, or MARTINICO, one of the islands called the Lesser Antilles, was discovered by Columbus in 1493. The first settlers in this island appear to have been a party of Frenchmen from the neighbouring island of St. Christopher, under the conduct of M. d'Enambuc, the governor of St. Christopher's. They landed on the western coast of the island, and took possession of it in the name of the French Company of the Isles of America. This company had obtained in 1626, from the French government, the exclusive property and commerce, for twenty years, of all the islands in the new world, which they might bring under cultivation, &c. About the year 1664, the new colonists, after many conflicts with the native Caribbees, succeeded in securing possession of the island. In 1651, this company was compelled by unfortunate circumstances to sell these islands (Martinique, Guadaloupe and others); and Du Parquet, who had been named governor and seneschal of Martinique, bought that island, together with the islands of St. Lucia, Grenada and the Grenadines, for sixty thousand *livres*. In 1646, the home government bought Martinique from the Du Parquet family, for one hundred and twenty thousand *livres*, and ceded its rights to the West India Company, which had been established in that year, and which was to have, for forty years, the exclusive monopoly of the commerce and navigation of the seas of America. This last company was suppressed in 1674; and from that time, or the beginning of 1675, the island of Martinique was definitively annexed to France.

In 1762, the English conquered this island, but restored it in 1763. The island of Dominica (a French possession), which had been also conquered by the English at the same time as Martinique, was retained by them when they restored Martinique.

At the beginning of the French Revolution, this colony was afflicted with civil war, which originated in the proceedings adopted towards the colony by the National Assembly and Convention in the mother country.

In 1794, the English again took forcible possession of the island, but restored it in 1802. In 1809, the island again fell into their hands; but it was again restored at the peace in 1814. The English occupied a few forts in the island, from 1815 to 1816; but the treaty of November, 1815, finally restored this colony to France.

Courts of law.

The judicial organization and the administration of justice in this island are regulated by an organic ordinance, dated the 14th September, 1828, and modified by four other ordinances dated the 10th October, 1829, the 15th February, 1831, the 18th July, 1845, and the 18th October, 1846.

The courts of law in this island are as follows:—1. A Royal Court, which sits at Fort-Royal; 2. Two courts of assize, one at Fort-Royal and the other at St. Pierre; 3. Two tribunals of first instance, one of which sits at Fort-Royal, and the other sits at St. Pierre (the fort); 4. Eight tribunals of justices of the peace, one of which sits at Fort-Royal, one at St. Pierre (the fort), one at St. Pierre (the *mouillage*), one at Le Marin, one at La Trinité, one at the Anses-d'Arlets, one at the Grand'Anse, and the eighth at Le Saint-Esprit. There are *huissiers* attached to all these tribunals. The competency of these several tribunals is regulated by the ordinance of the 14th September, 1828.

Royal court.

THE ROYAL COURT is composed of nine counsellors, one of whom is president; three counsellor-auditors, an attorney-general and two substitutes, a registrar, a *chef-de-bureau*, a sworn clerk and a *commis-expéditionnaire*.

Assize courts.

THE COURTS OF ASSIZE.—There are two assize courts; and each of these courts (one of which sits at Fort-Royal, and the other at St. Pierre,) comprises the jurisdiction of the tribunal of first instance belonging to the city which is within its *ressort*. Each court consists of three of the counsellors of the Royal Court, and of four members of the college of assessors elected by the college. The attorney-general, or one of his substitutes, *porte la parole* at the Assize Courts.

Tribunals of first instance.

THE TRIBUNALS OF FIRST INSTANCE.—Each of these tribunals is composed of a royal judge and a deputy, two judge-auditors, a king's attorney and two substitutes, a registrar and a clerk; and comprises within its jurisdiction one of the two *arrondissements* into which the island is divided.

Justices of the peace.

THE JUSTICES OF THE PEACE.—Each tribunal consists of a justice and a registrar.

Other tribunals.

This colony has also a colonial council, a privy council, a commission on prize law, and councils of war. The colonial council consists of thirty members elected by the electoral colleges of the colony. The competency of this council is regulated by an ordinance dated the 24th April, 1833. There is also a privy council, to assist the governor, which is composed of the military commander, the heads of the administration (namely, the *ordonnateur*, the director of the interior and the attorney-general), the colonial comptroller, the *secrétaire-archiviste*, and three privy counsellors, nominated by the king, and chosen from among the notable inhabitants. When this council sits as a council of the *contentieux administratif*, the help of two members of the *ordre judiciaire* is called in. The competency of this court is regulated by a royal ordinance dated the 9th February, 1827. There is also a commission on prize law, and councils of war: these tribunals are regulated by the royal ordinance of the 9th February, 1827, and the laws in force in the island. There are two *bureaux* of commerce, one at Fort-Royal, which is composed of seven members and four supplementary

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members; and the other at St. Pierre, which is composed of five members and two supplementary members. Neither of these *bureaux* has any legislative or judicial authority.

Laws, &c. of the Lesser Antilles.

LOIX ET CONSTITUTIONS DES COLONIES FRANÇAISES DE L'AMÉRIQUE SOUS LE VENT, &c. Par M. Moreau de Saint-Méry, Avocat au Parlement, ancien Avocat au Conseil Supérieur du Cap-François, &c. 6 vols. 4to. Paris, 1784—86.

A Collection of the Laws and Constitutions of the French Colonies in the Leeward Islands, by Moreau de Saint-Méry, an advocate in the parliament of Paris, and formerly an advocate in the supreme court at Cap-François.

Médéric-Louis-Élie Moreau de Saint-Méry was born in 1750, and died in 1820: he was author of other works besides the present. This collection consists of ordinances, decrees, edicts, declarations, decisions of the council of state and of the colonial courts, letters to and from the governors, letters-patent and numerous other documents relating to these colonies, the earliest of which are letters-patent granted by Henri II. in 1550, and the latest is dated in 1785. The first volume has a dedication and a preliminary discourse; and each volume contains a list of governors, intendants, &c., and two indices.

The first volume comprises the laws, &c. from 1550 to 1702; the second those from 1704 to 1721; the third, those from 1722 to 1749; the fourth, those from 1750 to 1765; the fifth, those from 1766 to 1779; and the sixth, those from 1780 to 1785.

The title pages of the volumes state that the laws, &c. are followed by a history and description of the French part of the island of St. Domingo, as well as other matters; but there is no such description contained in any of the volumes, nor are any of the other matters inserted.

Code de la Martinique.

CODE DE LA MARTINIQUE. Nouvelle édition par M. Durand Molard, sous-Commissaire des Colonies, &c. 5 vols. 8vo. Saint-Pierre (Martinique), 1807—14.

A collection of ordinances, decrees, declarations, and numerous other acts affecting the island of Martinique, extending from 1642 to 1814. The first volume comprises the acts from 1642 to 1754; the second, those from 1755 to 1768; the third, those from 1769 to 1786; the fourth, those from 1787 to 1804; the fifth, those from 1804 to 1814. Each volume has an index. The fifth volume appears to have been compiled by M. Dufresne de Saint-Cergues, president of the tribunal of first instance at Basse-Terre (Guadaloupe), and has a supplement.

Martin Durand-Molard, at one time secretary-general of the prefecture at Martinique, was born at Châtillon-sur-Chalaronne in 1771, and died at Nantes in 1831. He composed other works besides the present.

Another collection of laws was published in 1767, with a supplement in

1772, folio, under the title of *Code de la Martinique*. These laws will, in all probability, be found in Durand-Molard's collection, or in that of Moreau de Saint-Méry.

An official Bulletin of the Laws is published monthly, in each of the islands of Martinique and Guadaloupe.

GUADALOUPE AND ITS DEPENDENCIES.

The group of islands which constitute the colony of Guadaloupe, consists of Guadaloupe, Marie-Galante, La Désirade and Les Saintes, and about two-thirds of the island of St. Martin; the other third belongs to the Dutch. They lie in the Atlantic Ocean, and form part of the Lesser Antilles. Guadaloupe is divided into two parts, the one called Guadaloupe, and the other Grande-Terre. Guadaloupe was inhabited by Caribbees, when the French first arrived there.

There appears not to have been any European settlement formed in either of these islands before 1635, when L'Olive, lieutenant-general of D'Esnambuc, the French governor of St. Christopher's, and a gentleman named Duplessis, were sent by the company of the American isles (*Compagnie des Isles de l'Amérique*) to take possession of Guadaloupe. They landed on the island, on the 28th June of that year, with 550 persons, of whom 400 were labourers. They had wars with the Caribbees at the very beginning; but by a treaty of peace concluded with them in 1660, the remnant of the Caribbees, who had survived the war, were settled in the islands of Dominica and St. Vincent. The colonists were augmented, from time to time, by fresh arrivals from St. Christopher's, and from other sources.

The three companies which had in succession (from 1626 to 1642) obtained the ownership of the lands in Guadaloupe and the other American islands, were compelled (by their misfortunes) to dispose of their interest in them; and the four islands of Guadaloupe, Marie-Galante, La Désirade and Les Saintes, were sold by them (in 1649) to the Marquis of Boisseret, for 60,000 *livres Tournois*. He disposed of one half of his interest to his brother-in-law, the Sieur Houel.

In 1653, 50 Dutchmen, who were driven out of the Brazils, took refuge in Guadaloupe, together with about 1200 other persons, who were partly of a mixed race (*métis*), and partly negroes.

The new proprietors of Guadaloupe retained their ownership till 1664, when Louis XIV., at the suggestion of Colbert, bought the island of Guadaloupe and its dependencies for 125,000 *livres*. In that year, Colbert also established a new company, under the title of the "West India Company," and the islands were vested in it; but as this last company had no better success than its predecessors, it was dissolved in 1674 by the king, who paid off its debts. From this period these islands may be considered as forming part of the domain of the state, and all Frenchmen had the right of trading with them. In 1666, 1691 and 1703, Guadaloupe was assailed by the English, but without success. In 1759, however, the colony fell into their hands, but was restored at the peace in 1763.

Previously to the year 1763, Guadaloupe was dependent on Martinique; but in that year, the former island had a separate and independent government and administration granted to it. Six years afterwards (1769), Guadaloupe was

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again placed under the authority of Martinique; but in 1775, it was definitively declared to be independent of that island.

GUADALOUPE.

In 1794, the English again took possession of Guadaloupe and its dependencies, but the islands were retaken by the French about nine months afterwards. In 1810, Guadaloupe again fell into the hands of the English, who had previously taken possession of its dependencies, and was by them ceded to the Swedes in 1813. Sweden never took possession of this colony, which was definitively restored to France by the treaty of peace in 1814.

The island of Marie-Galante, one of the dependencies of Guadaloupe, was discovered by Columbus, and was first colonized by the French in the early part of the seventeenth century. It is stated that this island received its appellation from the name of the ship in which Columbus sailed (*La Maria Galante*).

The Spaniards formed settlements on the island of St. Martin (another of the dependencies of Guadaloupe) very soon after its discovery by Columbus; but they appear to have deserted it, for about the middle of the seventeenth century the Dutch and the French divided it between them. In 1801, the island was taken by the English, but was restored at the peace in 1814. The French have now about two-thirds of the island, and the Dutch the remaining third.

Les Saintes, a cluster of small islands, and another of the dependencies of Guadaloupe, were discovered at a very early period by the Spaniards, on or about All-Saints' Day, and were named by them *Los Santos*. The chief of these small islands are *Terre-de-haut* and *Terre-de-bas*.

La Désirade, another of these dependencies, was discovered by Columbus, and was called *La Deseada* by the Spaniards. It fell into the hands of the French probably in the early part of the seventeenth century.

The judicial organization and the administration of justice in this colony are regulated by the same ordinances as Martinique, and by another ordinance dated the 26th September, 1846.

Courts of law.

Guadaloupe and its dependencies are divided into three *arrondissements*, namely, Basse-Terre, Pointe-à-Pitre and Marie-Galante, which are subdivided into twenty-four communes or quarters, and ten jurisdictions of justices of the peace. The following are the courts of law in this colony: 1. A royal court, which sits at Basse-Terre; 2. Two courts of assize, one for the *arrondissement* of Basse-Terre, and the other for that of Pointe-à-Pitre; 3. Three tribunals of first instance, one of which sits at Basse-Terre (the capital), another at Pointe-à-Pitre, and the third at Grand-Bourg (island of Marie-Galante); 4. Ten tribunals of justices of the peace, one of which sits at Basse-Terre, one at Capesterre, one at Pointe-Noire, one at Marigot (island of St. Martin), one at Pointe-à-Pitre, one at Lamentin, one at Port-Louis, one at Le Moule; one at Joinville, and the tenth at Capesterre (island of Marie-Galante).

Royal court.

THE ROYAL COURT consists of nine counsellors, one of whom is president; three counsellor-auditors, an attorney-general and two substitutes, a registrar and a sworn registrar's clerk.

Assize courts.

THE COURTS OF ASSIZE.—There are two *arrondissements* of courts of assize, and each of these courts comprises the jurisdiction of the tribunal of first instance belonging to the city within its resort.

Each assize court consists of three counsellors of the royal court and four members of the college of assessors. The attorney-general, or his substitute, *porte la parole* at the assize courts.

THE TRIBUNALS OF FIRST INSTANCE.—The tribunal at Basse-Terre consists of a royal judge and a deputy, three judge-auditors, a king's attorney and two substitutes, a registrar and a sworn registrar's clerk. The tribunal at Pointe-à-Pitre consists of a royal judge and a deputy, a judge-auditor and a deputy, a king's attorney and two substitutes, and a registrar. The tribunal at Marie-Galante consists of a royal judge and a deputy, a king's attorney and a substitute, and a registrar. The jurisdiction of the first tribunal comprises the cantons of Basse-Terre, Capesterre, Pointe-Noire, and Marigot (isle of St. Martin); that of the second, the cantons of Pointe-à-Pitre, Lamentin, Fort-Louis and Le Moule; that of the third, the two cantons of the island of Marie-Galante.

Tribunals of first instance.

JUSTICES OF THE PEACE.—Each of the tribunals of the justices of the peace consists of a justice and a registrar.

Justices of the peace.

The competency of these various tribunals is regulated by the ordinance of the 14th September, 1828. There is also in this colony a colonial council, a privy council, a commission on prize law, and councils of war, the composition and jurisdiction of which are the same as those of the councils of Martinique. The colonial council sends two delegates to Paris.

Other tribunals.

There are two chambers of commerce, which were created in 1832, one of which is at Basse-Terre, and is composed of six members and the director of the interior; the other, at Pointe-à-Pitre, is composed of nine members, and is presided over by the *président de ville*. Neither of these tribunals has any legislative or judicial authority.

Commercial chambers.

FRENCH GUYANA.

Under the general name of Guyana is comprised that part of the American continent, which lies between the rivers Amazons and Orinoco. This coast was first visited by Columbus in 1498. No settlements appear to have been made in these parts before the year 1626, when twenty-six Frenchmen took up their abode, as agriculturists, on the banks of the river Sinnamary. Other colonists settled, in 1630 and 1633, on the banks of the river Conanama; and in the following year, some French colonists went over to the isle of Cayenne, and began to cultivate the land about the coast of the islet of Rémire; and soon afterwards built, at the mouth of the river Cayenne, a fort and town, which in after times became the capital of French Guyana.

About the year 1633, a certain number of merchants of Rouen formed themselves into an association or company, and obtained the monopoly of the commerce and navigation between the Amazons and the Orinoco. As this company did not succeed, another company was formed ten years afterwards, in the same city, under the name of the "Company of the North Cape," who obtained (like the former company) letters-patent granting them all the country between the Amazons and the Orinoco, on condition that they would form establishments and colonize it. The company collected together about 300 persons, and sent them to Cayenne, under the conduct of Ponest de Bretigny, one of their body. This last expedition was unfortunate, for nearly the whole of these colonists were cut off by the natives.

In 1651, another company was formed at Paris, under the name of the "Company of Equinoctial France" (French Guyana being so called at that time). This company inrolled 700 or 800 volunteers at Paris in 1652, under the com-

COLONIAL LAWS.

FRENCH GUYANA.

mand of a Norman gentleman named De Royville. This undertaking also proved equally unfortunate; wars broke out with the natives, and the survivors of the colonists were forced, in 1654, to take refuge in Surinam, the capital of the settlements formed by the Dutch between the rivers Maroni and Orinoco. In 1663, another company was established under the same name as the last. With the help of the government, they succeeded in driving out of the island of Cayenne some Dutch settlers, who had occupied it on its being deserted by the former colonists.

In the following year, the king revoked all the grants made to all the companies that had been formed for the colonization of French Guyana; and by an edict, dated in that year, authorized the forming of another much larger company, styled the "West India Company," and invested them with the ownership and dominion of all the territories possessed by the French in South America, together with the monopoly of the commerce in those parts for the space of forty years.

In 1667, the English seized on the island of Cayenne; but towards the end of the same year, the French resumed possession of the island. Missionaries were sent into the interior of the country, who instructed the natives, and brought them into connection with the colonists.

In 1672, the Dutch attacked Cayenne with some ships of war, and became masters thereof; but two years afterwards, it was recovered by a fleet under the command of the Count d'Estrées.

The West India Company being suppressed in 1674, French Guyana, as well as the other French colonies, fell under the immediate dominion of the king of France.

In 1688, the colony was increased by new comers; but the greater part of the old colonists were unhappily induced by them to make a fruitless attempt to plunder Surinam. The consequence of this rash undertaking was the loss to the colony of the greater part of the labouring class of its population.

In the year 1763, the French government, in order to make amends in some way for the loss of Canada, fitted out an expedition on a large scale, for the purpose of colonizing French Guyana. The expedition consisted of twelve thousand colonists of all classes, chiefly from Alsace and Lorraine. This expedition sailed, and the new colonists arrived in the colony. But so badly was the undertaking managed, that out of the twelve thousand who arrived at the colony only four thousand returned to Europe. The rest became a sacrifice to the climate, or perished through want. The cost of this expedition was about thirty millions of francs.

A new company was established in 1768, after the plans of the Baron de Bessner, for the purpose of forming a settlement on the right bank of the river Tonnegrande, about ten leagues from Cayenne. This undertaking succeeded no better than the others, and cost the company eight hundred thousand *livres;* and the government also sustained a loss on that occasion.

In 1794, the decree of the National Convention in the mother country for the abolition of slavery in the colonies caused great confusion in French Guyana for some time. In 1797, upwards of five hundred individuals banished (*déportés*) from France arrived in French Guyana, the greater part of whom fell victims to the climate, or perished through want.

In December, 1808, an Anglo-Portuguese expedition attacked this colony,

which was surrendered on the following January to the Portuguese. In 1814, the colony was restored to France; but its limits were fixed between the rivers Oyapock and Amazons, in conformity with the articles of the treaty of Utrecht in 1713.

In order to remedy, in some manner, the want of population in this colony, twenty-seven Chinese agriculturists and five Malays were brought from the Manillas into the colony, in 1820; and in the following year, seven families from the United States settled there. Both these expedients failed. The thoughts of the government at home were at this time fixed on forming a settlement in that part of the colony which is watered by the Mana. A preparatory expedition for that purpose was fitted out in 1823, comprising one hundred and sixty-four individuals, who sailed from France, and settled between twelve and eighteen leagues from the mouth of the Mana; and in 1824, three families from the Jura, consisting of twenty-seven persons, settled about two leagues from the mouth of the same river. Both these settlements failed.

The next undertaking, in respect of the colonization of these countries, was that of Madame Javouhey, the foundress and *supérieure-générale* of the congregation of the Sisters of St. Joseph of Cluny. She made an offer to the government in France to form settlements on the banks of the Mana, which should serve as an asylum for foundling children. The plan was approved, and an expedition, consisting of thirty-six sisters of the congregation, thirty-nine labourers (*cultivateurs*), engaged for three years, and some children, sailed from France at the expense of the state, and under the conduct of this lady. At the expiration of their engagements, the thirty-nine labourers left her; but she made up for their loss in such a manner that her colony continued to prosper.

In 1835, Madame Javouhey's colony or establishment underwent a complete change. At her suggestion, the home government decided that the negroes *de traite*, who were set free by virtue of the law of the 4th March, 1831, and were then in Guyana, should be sent to the banks of the Mana, in order to be prepared by labour and moral instruction (*les bonnes mœurs*) for that liberty which they were to be called to enjoy, at a later period, without any restriction whatever. In consequence of this decision, five hundred and fifty liberated negroes were sent to the neighbourhood of the Mana; and according to the accounts in 1838, this new colony was in as prosperous a condition as could be reasonably expected.

Courts of law.

The judicial organization and the administration of justice in this colony are regulated by a royal ordinance dated the 21st December, 1828, modified by other ordinances dated the 11th April, 1830, the 31st October, 1832, the 18th July, 1845, the 6th July and the 2nd December, 1846.

The courts of law in this colony are as follows:—1. A royal court; 2. A court of assizes; 3. A tribunal of first instance.—These courts sit at Cayenne. 4. Six tribunals of justices of the peace. The competency of these several tribunals is regulated by the organic ordinance of the 21st December, 1828.

Royal court.

THE ROYAL COURT is composed of six counsellors, one of whom is president; two counsellor-auditors, an attorney-general and a substitute, a registrar, a sworn registrar's clerk, and an *employé attaché au parquet*. [The term *parquet* is generally understood to mean the place in court occupied by the attorney-general and advocates-general, &c. who were formerly called the *gens du roi*, and are now named the *officiers du ministère public*.]

COLONIAL LAWS.

FRENCH GUYANA.

Assize court.

Tribunal of first instance.

Justices of the peace.

Other tribunals.

THE ASSIZE COURT is composed of three counsellors of the royal court and four members of the college of assessors. The attorney-general, or the counsellor-auditor who is appointed to perform the functions of the *ministère public, porte la parole* at the assize court.

THE TRIBUNAL OF FIRST INSTANCE is composed of a royal judge and a deputy, two judge-auditors, a king's attorney and two substitutes, a registrar and a sworn clerk.

THE JUSTICES OF THE PEACE.—This colony is divided into six cantons of justices of the peace, the capitals of which are Cayenne, Roura, Kourou, Sinnamary, Approuague and Oyapock. The tribunal at Cayenne consists of a justice, two supplementary justices, and a registrar. The tribunal at Sinnamary consists of a justice, a supplementary justice, and a registrar.

There is also in this colony a colonial council, a privy council, a commission of prize law, and councils of war. The first of these councils consists of sixteen members, elected by the electoral colleges of the colony. This council sends one delegate to Paris. The privy council is composed of the governor, the *ordonnateur*, the attorney-general, the colonial comptroller, the *secrétaire-archiviste*, and two privy counsellors.

The competency of these councils is much the same as that of the councils of Martinique, Guadaloupe and Bourbon. The ordinance regulating the competency of the privy council, the commission on prize law and the councils of war in this colony, is dated the 27th August, 1828.

There is an official bulletin of the laws, &c. published at Cayenne.

Malouet's *Mémoires*, &c.

COLLECTION DE MÉMOIRES et Correspondences officiales sur l'Administration des Colonies, et notamment sur la Guyane Française et Hollandaise, par M. Malouet. 5 vols. 8vo. Paris, 1802.

A Collection of *Mémoires* and Official Correspondence concerning the Colonies, &c. by Malouet, at one time a minister of the marine, and a counsellor of state.

Pierre-Victor Malouet was born at Riom in 1740, and died on the 7th September, 1814. A list of his works will be found in the *Biographie Universelle*, article "Malouet."

Guizan's Treatise, &c.

TRAITÉ sur les Terres noyées de la Guiane, appelées communément Terres Basses, par M. Guizan.

A Treatise on the low or alluvial Lands of French Guyana, by Guizan, an engineer, employed by Malouet. It was reprinted at Cayenne in 1825, by order of the governor of French Guyana.

Compendious account of the Colonization, &c.

PRÉCIS sur la Colonization des bords de la Mana, à la Guyane Française.

A compendious account of the Colonization of the banks of the Mana, &c. This is an official publication, and was printed at Paris in 1825, by order of the minister of French marine and colonies.

4. REPORTS OF CASES, &c.

i. *General Collections of Decisions of the Parliaments and other Sovereign Courts, &c.*
ii. *Decisions of the Parliaments and other Sovereign Courts separately, and Plaidoyers, &c.*
iii. *Celebrated Causes or Trials, &c.*

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i. *General Collections of Decisions, &c.*

General Collections.

1. NOUVEAU RECUEIL D'ARRÊTS DES COURS SOUVERAINES DE FRANCE. Par Nicolas T., Avocat. 12mo. Paris, 1609.

2. ARRÊTS NOTABLES, donnés dans les Conseils du Roi, et par les Cours Souveraines en France, en matière Ecclésiastique, par Jean Tournet. 2 vols. fol. Paris, 1631.

Tournet was an advocate in the Parliament of Paris, and flourished in the first half of the seventeenth century. Dupin states that Tournet's collection is partly compiled from the collections of Galli and others.

3. JOURNAL DU PALAIS, ou Recueil des principales Décisions de tous les Parlemens et Cours Souveraines de France, sur les questions les plus importantes du Droit Civil, &c. Par feu Maîtres Claude Blondeau et Gabriel Guéret, Avocats en Parlement. 2 vols. fol. Paris, 1713.

These decisions comprise the years 1666—1700.

Blondeau, an advocate in the parliament of Paris, was born in the early part of the seventeenth century, and died at the beginning of the eighteenth. He published a new edition of Bouchel's *Somme Bénéficiale*, in 2 vols. fol. under the title of *Bibliothèque Canonique*.

Guéret, also an advocate in the same parliament, was born in 1641, and died in 1668. He was author and editor of other works besides the present.

4. RECUEIL DES ARRESTS rendus dans tous les Parlemens et Conseils Souverains du Royaume, au sujet de la *Bulle Unigenitus*, et de ses suites. Depuis 1714 jusqu'à l'accommodement de 1720 inclusivement, &c. 3 vols. (in 4 tom.) 12mo. (No place) 1753.

A collection of the decisions of the parliaments of France, letters-patent and other documents on the subject of the famous dispute respecting the Papal Bull entitled *Unigenitus*; between the years 1714 and 1720. The first volume contains a short *avertissement*, and a chronological list of the decisions, &c.

5. ARRÊTS ET RÈGLEMENS NOTABLES DU PARLEMENT DE

REPORTS OF CASES, &c.

General Collections.

PARIS ET AUTRES COURS SOUVERAINES, rendus depuis 1737 jusqu'en 1741, par Gui du Rousseau de la Combe. 4to. Paris, 1743.

Gui du Rousseau de la Combe, an advocate in the parliament of Paris, was born probably at the beginning of the eighteenth century, and died in 1749. He was author of numerous other works besides the present.

6. ARRÊTS NOTABLES DES DIFFÉRENS TRIBUNAUX DU ROYAUME, par Mathieu Augeard. A new edition, in 2 vols. Folio. Paris, 1736.

Mathieu Augeard, an advocate in the parliament of Paris, was born in the seventeenth century, and died at Paris on the 27th December, 1751.

7. GAZETTE DES TRIBUNAUX, 1775 jusqu'en 1790. (Par Mars.) 30 vols. 8vo.

ii. *Decisions of the Parliaments, &c.*

PARLIAMENT OF PARIS.

Parliament of Paris.

Decisions.

1. [LES] OLIM, ou Registres des Arrêts rendus par la Cour du Roi, sous les règnes de Saint Louis, de Philippe le Hardi, de Philippe le Bel, de Louis le Hutin et de Philippe le Long. Publiés par le Comte de Beugnot, Membre de l'Institut. 3 vols. 4to. Paris, 1839—44.

The *Olim* are the registers of the decisions of the parliament of Paris from 1254 to 1318. They contain the earliest decisions of that parliament, and are nearly all of them written in Latin, the rest are in French. The first part only of the third volume is published.

Jean de Monluc, who appears to have been registrar of the king's court or parliament of Paris, was the first who began to collect the decisions of that court. De Monluc's collection was not completed by himself, but by those who succeeded him in his office.

The manuscript of the *Olim* is contained in four small folio volumes, which are now deposited in the *Archives du Royaume* at Paris; they are written on parchment.

The arrangement of this edition of the *Olim* is as follows:—

Vol. I. contains inquests, from 1255 to 1272; and decisions, from 1254 to 1295.

Vol. II. contains plaints, &c. from 1281 to 1298; decisions, from 1294 to 1318; and an appendix.

Vol. III. contains inquests and proceedings, from 1299 to 1318.

Each volume has a preface, notes and five indices. This edition forms part of the *Collection des Documens inédits sur l'Histoire de France.— 1ère Série—Histoire Politique.*

2. QUÆSTIONES JOHANNIS GALLI, &c.

These *quæstiones* appear to be the next decisions in order of time, and were collected by Johannes Galli (Jean du Cocq), at the end of the fourteenth century, under the above title. They are to be found in the *Stylus Antiquus*, &c. in the second volume of Du Moulin's works; and in the same volume are included some other decisions of the parliaments of Toulouse and Paris.

3. PLACITORUM SUMMÆ APUD GALLOS CURIÆ LIBRI XII., multis à 2ª editione placitis insignibus adaucti, etc. per Johannem Lucium (Du Luc). 8vo. Geneva, 1620.

Jean du Luc was attorney-general to Catherine of Medicis.

4. ANNÆ ROBERTI RERUM JUDICATARUM LIBRI IV. 8vo. Geneva, 1625.

These decisions were first printed at Cologne in 1599.

Anne Robert, an advocate in the parliament of Paris, was born at Orleans in the sixteenth century, and died about 1618. His collection of decisions was translated into French, and printed in 1611, 4to. and several times since.

5. RECUEIL DE PLUSIEURS ARRESTS NOTABLES DU PARLEMENT DE PARIS, pris des Mémoires de Louet. 2 vols. fol. Paris, 1712.

This edition is much augmented, and also contains several decisions of other parliaments, &c.

George Louet, an advocate, was born about the middle of the sixteenth century: he was made bishop of Tréguier, but died about 1608, without having taken possession of his bishopric.

6. ARRÊTS CÉLÈBRES ET MÉMORABLES DU PARLEMENT DE PARIS, recueillis par Barnabé le Vest, Avocat au Parlement. 4to. Paris, 1612.

7. ARRÊTS DE LA COUR, prononcés en robes rouges depuis 1580 jusqu'en 1621. Par Jacques de Montholon, etc. 4to. Paris, 1622.

For the meaning of the words *en robes rouges*, see among the treatises in this part of the French division of the Catalogue, the heading "Parliaments."

Jacques de Montholon, an advocate in the parliament of Paris, flourished in the early part of the seventeenth century.

8. ARRÊTS DE MANGEOT. 4to. Paris, 1655.

9. ARRÊTS DE LAURENT BOUCHEL ET JACQUES JOLI, Avocats au Parlement. 4to. Paris, 1630.

Laurent Bouchel, an advocate in the parliament of Paris, was born in the sixteenth century, and died in 1629.

REPORTS OF CASES, &c.

Parliament of Paris

Plaidoyers, &c.

8. PLAIDOYERS ET AUTRES OUVRAGES DE FR. P. GILLET. 2 vols. 4to. Paris, 1718.

François-Pierre Gillet, an eminent advocate in the parliament of Paris, was born at Lyons in 1648, and died on the 23rd October, 1720.

9. ŒUVRES DE MATHIEU TERRASSON. 4to. Paris, 1737.

A collection of Terrasson's works, which consist of discourses, *plaidoyers*, *mémoires* and consultations.

Terrasson, an advocate in the parliament of Paris, was born at Lyons on the 13th August, 1669, and died at Paris on the 30th September, 1734.

10. RECUEIL DE MÉMOIRES, FACTUMS ET HARANGUES, par Louis de Sacy. 2 vols. 4to. Paris, 1724.

De Sacy, an advocate in the parliament of Paris, was born about 1654, and died in 1727.

11. RECUEIL DE FACTUMS ET MÉMOIRES sur plusieurs Questions importantes. 2 vols. 4to. Lyons, 1727.

In this collection is to be found the *Testament* of Nicolle, with the *Mémoires* published in that cause.

12. PLAIDOYERS ET MÉMOIRES, par L. D. M. (Loyseau de Mauléon.) 2 vols. 4to. Paris, 1762—1627.

Alexandre-Jérôme Loyseau de Mauléon, an advocate in the parliament of Paris, was born in 1728, and died at Paris in 1771.

13. MÉMOIRES ET PLAIDOYERS, par Linguet. 11 vols. 12mo. Liege, 1776.

Simon-Nicolas-Henri Linguet, an advocate in the parliament of Paris, was born at Reims in 1736, and died on the 27th June, 1794. He was a most voluminous writer.

14. RECUEIL DE PLAIDOYERS, Harangues et Mémoires de plusieurs fameux Avocats du Parlement de Paris. 8vo. Paris, 1618.

15. RECUEIL DE REMONTRANCES faites en la Cour de Parlement de Paris, aux Ouvertures des Plaidoyers, par J. Faye. 4to. La Rochelle, 1591.

Jacques Faye, sieur d'Espeisses, an eminent lawyer, was born at Paris in 1544, and died at Senlis on the 20th September, 1590.

16. RECUEIL D'ACTIONS DE L'ÉLOQUENCE FRANÇOISE, contenant 32 Remontrances. 8vo. Lyons, 1604.

17. REMONTRANCES DE LA GUESLE, Procureur-Général. 4to. Paris, 1611.

Jacques de la Guesle, an eminent lawyer, was born at Paris in 1557, and died on the 3rd January, 1612. He was author of several works.

REPORTS OF CASES, &c.

Parliament of Paris.

Plaidoyers, &c.

18. REMONTRANCES FAITES AUX OUVERTURES DU PARLEMENT, par Lebret. 8vo. Paris, 1627.

Cardin Lebret was born at Paris in 1588, and died on the 24th January, 1655. His works were published in folio, 1689, and at other times: they consist of—1. A treatise intitled *Traité de la Souveraineté du Roi, de son Domaine, et de sa Couronne;* 2. A treatise intitled *Ordo perantiquus Judiciorum Civilium* (see *infra*, p. 123); 3. *Harangues et Plaidoyers.*

19. HARANGUES ET REMONTRANCES PRONONCÉES AU PARLEMENT. 4to. Paris, 1636.

20. LE TRÉSOR DES HARANGUES ET REMONTRANCES faites aux Ouvertures du Parlement et aux Entrées des Rois, par divers personnages, recueillies par Laurent Gilbaut, Avocat. 4to. Paris, 1660.

Arrêtés de Lamoignon.

21. LES ARRÊTÉS DU PREMIER PRÉSIDENT DE LAMOIGNON, ou Lois projetées dans les conférences du premier Président de Lamoignon pour le pays coutumier de France, et pour les provinces qui s'y régissent par le Droit écrit. 4to. Paris, 1776.

These *Arrêtés* will be found among Auzanet's works; they are merely projects for the reformation of the laws, &c.

Guillaume de Lamoignon, first president in the parliament of Paris, was born in 1617, and died in 1677.

See also among the collected works of authors in this part of the French division of the Catalogue, the works of Gilles Le Maistre, L'Hôpital, Charondas le Caron, Peleus, Servin, Patru, Antoine Lemaistre, Henrys, Omer and Denis Talon, Cochin, D'Aguesseau.

PARLIAMENT OF TOULOUSE, OR LANGUEDOC.

Parliament of Toulouse, or Languedoc.

Decisions, &c.

1. LES ARRÊTS NOTABLES DE LA COUR DE PARLEMENT DE TOULOUSE, recueillis par Bernard de la Roche-Flavin, avec les Décisions de De Cambolas, et les Observations de Fr. Graverol. 4to. Toulouse, 1728—45.

François Graverol, an advocate, flourished in the seventeenth century.

2. DÉCISIONS NOTABLES DU PARLEMENT DE TOULOUSE, recueillis par De Cambolas, Conseiller au Parlement de Toulouse. 4to. Toulouse, 1735.

Jean de Cambolas, president in the parliament of Toulouse, flourished in the seventeenth century.

REPORTS OF CASES, &c.

3. ARRÊTS D'ALBERT. 4to. Toulouse, 1696.

Parliament of Toulouse, or Languedoc.

4. ARRÊTS DE MAYNARD. 2 vols. fol. Toulouse, 1751.

Claude Maynard (father of the poet F. Maynard) was a counsellor in the parliament of Toulouse, and flourished in the sixteenth century.

Decisions, &c.

5. ARRÊTS NOTABLES DU PARLEMENT DE TOULOUSE, recueillis par Jean de Catelan, augmentés par Fr. et Jacq. de Catelan. 2 vols. 4to. Toulouse, 1703.

De Catelan (or Catellan) was a counsellor in the parliament of Toulouse, and died in the year 1700.

6. JOURNAL DU PALAIS, ou Recueil de plusieurs Arrêts remarquables du Parlement de Toulouse, depuis 1690, jusques et compris 1759. 6 vols. 4to. Toulouse, 1759.—SUPPLÉMENT du même Recueil, par Aguier. 2 vols. 4to. Toulouse, 1730—1778.

This *Journal* was begun by Juin, a counsellor in the parliament of Toulouse, who died in 1751.

7. ARRÊTS NOTABLES DU PARLEMENT DE TOULOUSE, prononcés en robes rouges, par Ant. de Lestang. 8vo. Toulouse, 1612.

Antoine de Lestang, a *président à mortier* in the parliament of Toulouse, was born in Le Limousin about the middle of the sixteenth century, and died at Toulouse about 1618. He was author of several works, chiefly historical.—For the meaning of the words *président à mortier*, see among the treatises in this part of the Catalogue the heading "Parliaments."

8. LES ŒUVRES DE SIMON D'OLIVE, contenant les Questions notables de Droit, décidées par divers Arrêts de la Cour de Parlement de Toulouse. 4to. Toulouse, 1682.

Simon d'Olive, a counsellor in the parliament of Toulouse, flourished in the first half of the seventeenth century.

See also Du Périer's works, in this division of the Catalogue.

Plaidoyers.

PLAIDOYERS DE JEAN BONI, Avocat au Parlement de Toulouse. 4to. Paris, 1657.

PARLIAMENT OF GRENOBLE, OR DAUPHINY.

Parliament of Grenoble, or Dauphiny.

Decisions.

1. GUIDONIS PAPÆ DECISIONES Gratianopolitani Parlamenti, etc. 4to. Lyons, 1618. See *ante*, p. 42.

2. JURISPRUDENCE, ou Décisions de Guy Pape, traduites avec des Remarques de Chorier. 4to. Grenoble, 1769.

This is an abridged translation of the preceding work.

3. FRANCISCI STEPHANI à D. S. Johanne à Salis et de Montefuron, Decisiones, etc. 4to. Grenoble, 1669.

4. FR. MARCI Decisiones aureæ in sacro Delphinatûs Senatu discussæ ac promulgatæ. 2 vols. fol. Lyons, 1579.

Plaidoyers.

1. PLAIDOYERS ET ARRÊTS de la Cour du Parlement de Dauphiné, par J. Guy Basset. 2 vols. fol. Grenoble and Paris, 1695.

2. ŒUVRES CHOISIES DE SERVAN. 5 vols. 8vo. Paris, 1825.

Joseph-Michel-Antoine Servan, an eminent lawyer, was born at Rennes on the 3rd November, 1737. He was attorney-general in the parliament of Grenoble, and died on the 4th November, 1807. This selection of his works consists of a few *plaidoyers*, and numerous political and philosophical tracts. An ample account of them will be found in the second volume of the *Profession d'Avocat*, edit. 1832, pp. 304, 305.

See also among the collected works of authors in this part of the French portion of the Catalogue, the *Plaidoyers* of Expilly.

PARLIAMENT OF BORDEAUX, OR GUIENNE.

Parliament of Bordeaux, or Guienne.

Decisions, &c.

1. BOERII DECISIONES BURDIGALENSES. Fol. Lyons, 1603.

A French translation of these decisions was published at Paris in 1611. 4to.

Nicolas Bohier (in Latin Boërius), a president *à mortier* in the parliament of Bordeaux, was born at Montpellier about 1470, and died in the sixteenth century.

A list of Bohier's other works (among which are fifty-two *consilia*, printed at Lyons, fol. 1554,) will be found in the *Biographie Universelle*, article "Bohier."

2. REMONTRANCES ET ARRÊTS prononcés en robes rouges, par And. de Nesmond, premier Président au Parlement de Bordeaux. 4to. Poitiers, 1617.

REPORTS OF CASES, &c.

Parliament of Bordeaux, or Guieune.

Decisions, &c.

3. ARRÊTS NOTABLES du Parlement de Bordeaux, par A. Boë. 4to. Bordeaux, 1666.

4. DÉCISIONS SOMMAIRES DU PALAIS, et Arrêts de la Cour de Parlement de Bordeaux, illustrés de Notes et d'Arrêts de la Cour de Parlement de Grenoble, par A. La Peyrère. 4to. Bordeaux, 1675.

Abraham de la Peyrère, an eminent advocate in the parliament of Bordeaux, was born in the seventeenth century, and died in 1704.

5. ANCIENS ET NOUVEAUX RÈGLEMENS de la Cour du Parlement de Guyenne, par Jean Verninac et Jean Lhommeau. 4to. Bordeaux, 1703.

Plaidoyers, &c.

1. PLAIDOYERS et actions graves et éloquentes de plusieurs fameux Avocats du Parlement de Bordeaux, et Arrêts sur ce intervenus. 4to. Bordeaux, 1616.

2. LA GUYENNE DE M. ANT. LOISEL, qui sont huit remontrances faites en la Chambre de Justice de Guyenne sur le subject des édits de pacification, etc. 8vo. Paris, 1605.

Jurisprudence.

3. LA JURISPRUDENCE du Parlement de Bordeaux, etc. Par M. de Salviat. 4to. Paris, 1787. 2 vols. 4to. Limoges, 1824.

PARLIAMENT OF DIJON, OR BURGUNDY.

Parliament of Dijon, or Burgundy.

Decisions, &c.

1. ARRÊTS NOTABLES de la Cour de Parlement de Bourgogne, par J. Bouvot. 2 vols. 4to. Geneva and Cologne. 1623.

Job Bouvot, an advocate in the parliament of Dijon, was born at Châlons-sur-Saône in 1558, and died there in 1636. He wrote a commentary on the customary laws of Burgundy.

2. ARRÊTS NOTABLES du Parlement de Dijon, recueillis par Fr. Perrier, etc. 2 vols. fol. Dijon, 1735.

François Perrier, an advocate in the parliament of Dijon, was born at Beaune in 1645, and died at Dijon on the 3rd October, 1700. He composed some other minor works.

3. RÈGLEMENS du Parlement de Dijon. 4to. Dijon, 1737.

4. NOUVEAUX RÈGLEMENS de la Cour du Parlement de Bourgogne. 12mo. Dijon, 1749.

REPORTS OF CASES, &c.

Parliament of Dijon, or Burgundy.

1. DISCOURS PUBLICS et Harangues prononcés au Parlement de Dijon, par P. de Xaintonge. 8vo. Paris, 1625.

A Continuation of the same was published in 8vo. Paris, 1628.

2. DISCOURS PUBLICS et Éloges prononcés par Guyton de Morveau, Avocat-Général au Parlement de Dijon. 3 vols. 12mo. Paris, 1775—82.

Plaidoyers, &c.

3. PLAIDOYERS sur plusieurs Questions importantes de droit, par le même. 4to. Dijon. 1785.

Louis-Bernard Guyton de Morveau, advocate-general in the parliament of Dijon, was born at Dijon on the 4th January, 1737, and died on the 2nd January, 1816. He composed several chemical and other works.

PARLIAMENT OF ROUEN, OR NORMANDY.

Parliament of Rouen, or Normandy.

Decisions.

1. ARRÊTS DU PARLEMENT DE ROUEN, sur plusieurs articles de la Coutume de Normandie. 32mo. Rouen, 1680.

2. RECUEIL D'ARRÊTS DE RÈGLEMENT, et autres Arrêts notables du Parlement de Normandie, par M. Froland. 4to. Paris, 1740.

Louis Froland, an advocate in the parliament of Rouen, was born in the seventeenth century, and died in 1746. He composed three other works on law besides the present.

See the Decisions of the Exchequer of Normandy, *ante*, p. 29.

PARLIAMENT OF AIX, OR PROVENCE.

Parliament of Aix, or Provence.

Decisions, &c.

1. CENTURIÆ CAUSARUM IN SUMMÂ, etc. Provinciæ Curiâ decisarum, auctore Fr. de Claperiis. 4to. Lyons, 1616.

François de Clapiers, Seigneur de Vauvenargues, was a counsellor in the chamber of accounts and court of aids of Provence, and flourished in the sixteenth century. He wrote a compendious account of the counts of Provence, under the title "*De Provinciæ Phocensis Comitibus*," which was translated into French, under the title "*Généalogie des Comtes de Provence.*"

2. ARRESTS SUR QUELQUES QUESTIONS NOTABLES, prononcéz en robbe rouge, au Parlement de Provence, par le Sr. D[u]v[air], p[remier] P[résident] au dict Parl[ement]. 8vo. Paris, 1607.

Guillaume du Vair, first president in the parliament of Provence, was born in 1556, and died in 1621.

REPORTS OF CASES, &c.

Parliament of Aix, or Provence.

Decisions, &c.

3. RECUEIL des Arrêts notables de la Cour de Parlement de Provence, par Hyacinthe de Boniface. 2 vols. fol. Paris, 1670, and 3 vols. fol. Lyons, 1698, in all 5 vols.

De Boniface, an eminent advocate in the parliament of Aix, was born at Forcalquier on the 14th October, 1612, and died at Aix on the 28th July, 1699.

4. ARRÊTS notables de la Cour de Parlement de Provence, recueillis par feu Messire Balthasar de Bézieux. Fol. Paris, 1750.

De Bézieux, who was president in the chamber of inquests in the parliament of Provence, was born at Aix in 1655, and died on the 16th May, 1722. This collection is in continuation of Boniface's.

5. ARRÊTS de Règlement rendus par le Parlement de Provence, par M. Grimaldi de Regusse. 4to. Aix, 1745.

6. ARRÊTS notables rendus par le Parlement de Provence, par M. Grimaldi de Regusse. 4to. Aix, 1746.

Grimaldi was a president *à mortier* in the parliament of Aix.

7. JOURNAL DU PALAIS DE PROVENCE, par Janety. 6 vols. 4to. Aix, 1782—85.

8. RÈGLEMENT GÉNÉRAL de la Cour de Parlement sur l'Instruction des Procès. 12mo. Aix, 1703.

Actes de Notoriété, Plaidoyers, &c.

1. ACTES DE NOTORIÉTÉ donnés par les avocats et procureurs-généraux au Parlement de Provence, &c. Par De la Touloubre. 8vo. Avignon, 1772.

Louis Ventre, Seigneur de la Touloubre, was an advocate in the parliament of Aix; he was born at Aix in 1706, and died in that city on the 3rd September, 1767. He composed several works on law, among which is a Commentary on the Statutes of Provence, and a work on the Feudal Jurisprudence of Provence and Languedoc.

2. RECUEIL DES HARANGUES ET TRAICTEZ du S^r du Vair, &c. 8vo. Paris, 1607.

The harangues alone relate to law.

3. DISCOURS PRONONCÉS par un de Messieurs les avocats-généraux du Parlement de Provence (par Gueydan). 5 vols. 12mo. Paris, 1739.

See also Du Périer's works in this part of the Catalogue.

PARLIAMENT OF RENNES, OR BRITTANY.

Parliament of Rennes, or Brittany.

Decisions, &c.

1. ARRESTS notables donnez en la Cour de Parlement de Bretagne, et prononcez en robe rouge, par Messire Guill. de Lesrat, Président en la dicte Cour. 4to. Paris, 1581.

These decisions were made between the years 1573—1579.

2. CONTROVERSES AGITÉES en la Cour de Parlement de Bretagne, par P. Belordeau. 2 vols. 4to. Paris, 1626.

Pierre Belordeau, an advocate in the parliament of Brittany, flourished in the early part of the sixteenth century.

3. ARRÊTS du Parlement de Bretagne, pris des Mémoires et Plaidoyers de feu M^e. Sébast. Frain. 2 vols. 4to. Rennes, 1684.

4. RECUEIL D'ARRÊTS rendus au Parlement de Bretagne, par Paul de Volant. 2 vols. 4to. Rennes, 1722.

De Volant flourished in the early part of the eighteenth century.

5. ARRÊTS et Règlemens du Parlement de Bretagne, recueillis par Noël du Fail. 2 vols. 4to. Nantes, 1715—16.

6. ARRÊTS et Règlemens du Parlement de Bretagne, avec les Observations de M. Sauvageau. 4to. Nantes, 1737.

7. JOURNAL DES AUDIENCES et Arrêts du Parlement de Bretagne, par Poullain du Parc. 5 vols. 4to. Rennes, 1737—78.

Augustin-Marie Poullain du Parc was born at Rennes in 1701, and died in 1782; he composed a Commentary on the Customary Laws of Brittany, the *Principes du Droit Français, suivant les maximes de Bretagne*, 12 vols. 12mo. Rennes, 1767—71, and some other works relating to the parliament and customary laws, &c. of Brittany.

8. RECUEIL D'ARRÊTS du Parlement de Bretagne, rendus de 1770 à 1777, par M. Potier de la Germondaye, &c. 12mo. Rennes (about 1777).

9. RECUEIL DES ARRÊTS du Parlement de Bretagne, touchant la Règle à suivre dans les Jugemens. 12mo. Rennes, 1734.

EPITOME OU ABRÉGÉ DES OBSERVATIONS FORENSES, par P. Belordeau, &c. 4to. Paris, 1622.

Plaidoyers, &c.

REPORTS OF CASES, &c.

PARLIAMENT OF METZ.

Parliament of Metz.

Decisions.

1. DÉCISIONS DE PLUSIEURS NOTABLES Questions traitées en l'audience du Parlement de Metz, par Louis Fremin, Avocat-général au même Parlement. 4to. Toul, 1644.

2. RECUEIL PÉRIODIQUE DES ARRÊTS du Parlement de Metz, qui préjugent des Questions de Droit, &c. 4to. 1771.

Plaidoyers.

PLAIDOYERS de De Corberon, Avocat-général au Parlement de Metz; ensemble les Plaidoyers d'Abel de Sainte-Marthe. 4to. Paris, 1693.

Nicolas de Corberon was attorney-general in the parliament of Metz in 1636, and died on the 19th May, 1650.

Abel de Sainte-Marthe, son-in-law of De Corberon, was an advocate and counsellor of state; he was born at Loudun in 1566, and died in 1652.

PARLIAMENT OF DÔLE, BESANÇON, OR FRANCHE-COMTÉ.

Parliament of Dôle, Besançon, or Franche-Comté.

Decisions, &c.

1. GRIVELLI DECISIONES celeberrimæ Senatûs Dolani. Fol. Dijon, 1731.

Jean Grivel, a counsellor in the parliament of Dôle, and afterwards counsellor of state in Flanders, was born in the sixteenth century, and died at Brussels in October, 1624.

2. RÈGLEMENT pour les Frais des Vacances et Procédures de Justice du Comté de Bourgogne. 12mo. 1684.

Franche-Comté, or the county of Burgundy, was formed out of the ancient kingdom of Burgundy, in the tenth century. It had a parliament distinct from that of the duchy of Burgundy: the latter parliament sat at Dijon.

PARLIAMENT OF DOUAY, TOURNAY, OR FLANDERS.

Parliament of Douay, Tournay, or Flanders.

Decisions, &c.

1. RECUEIL des Arrêts rendus par le Parlement de Tournay, par M. Pinault. 2 vols. 4to. Valenciennes, 1702.

Matthieu Pinault, first president in the parliament of Flanders (or Tournay), flourished in the seventeenth century. He wrote, in addition to the *Arrêts*, a commentary on the *Coutume* of Cambrai, 4to. Douay, 1691, and some *Mémoires du temps*.

2. LES ARRÊTS du Parlement de Flandre, par J. Pollet. 4to. Lille, 1716.

3. HISTOIRE et Éleméns du Droit Français, principalement

pour les Provinces qui sont du ressort du Parlement de Flandre, par Dumées. 12mo. Douay, 1753. REPORTS OF CASES, &c.

Antoine Dumées, an advocate in the parliament of Flanders, was born near Valenciennes, on the 22nd July, 1722, and died at Avesnes, on the 27th February, 1765.

SOVEREIGN COURT OF NANCY, OR LORRAINE.

1. ARRÊTS de la Cour Souveraine de Lorraine. 4to. Nancy, 1717. Sovereign Court of Nancy, or Lorraine.

2. ARRÊTS Choisis, &c. 2 vols. 4to. Nancy, 1717. Decisions.

1. JURISPRUDENCE des Tribunaux de Lorraine, précedée de l'Histoire du Parlement de Nancy, par Guill. de Rogéville. 4to. Nancy, 1785. Jurisprudence, &c.

2. DICTIONNAIRE HISTORIQUE des Ordonnances et des Tribunaux de Lorraine et du Barrois, par de Rogéville. 2 vols. 4to. Nancy, 1777.

SOVEREIGN COUNCIL OF ALSACE.

ESSAI de Recueil d'Arrêts notables du Conseil Souverain d'Alsace [par de Corberon]. 4to. Colmar, 1740. Sovereign Council of Alsace. Decisions.

PLAIDOYERS et Actions de M^e. Arnaud de Bordenave, Avocat. 8vo. Paris, 1641. *Plaidoyers.*

GRANDS-JOURS.

The *Grands-Jours* were assizes or extraordinary sessions, which the parliaments and other superior courts held, from time to time, in some city within their jurisdiction, at a distance from their ordinary place of sitting, to hear the complaints which the inhabitants of the province might make against the judges and other judicial officers who had jurisdiction there; and to procure, by their presence, expedition in the dispatch of affairs, and particularly of criminal causes, &c.

The rare occurrence and solemnity of these assizes, together with the importance of the causes tried therein, and the rank of the persons by whom they were held, probably gave rise to the appellation of *Grands-Jours*.

Charles le Bel caused some *Grands-Jours* to be held at Paris, to inquire into the conduct of certain individuals accused of malversation; they were capitally punished.

The *Grands-Jours*, which were held after that time in other cities, were established by letters-patent and commission of the king, to decide, in the last resort,

REPORTS OF CASES, &c.

on criminal causes, and civil causes to a certain amount, in the provinces, bailiwicks, seneschalsies and *pays* named in the king's letters, and only during the time appointed by the same. It was particularly their business to procure for the inhabitants of the provinces greater expedition and a diminution of expense, in the prosecution of their suits.

Such were the *Grands-Jours* held at Bordeaux, in the reign of Charles VII.; at Angers in 1539; at Moulins in 1534, 1540, 1559; at Poitiers in 1454, 1530, 1541, 1567 and 1629; at Riom in 1546; at Tours in 1533 and 1547; at Troyes in 1402, 1535 and 1583; at Lyons in 1596; at Clermont in Auvergne in 1665-6, and at Puy-en-Velay, for Languedoc, in 1666.

The ordinance of Blois of 1579, ordained (art. 206) that the *Grands-Jours* should be held every year, and directed that the governors and deputy-governors of the provinces where the *Grands-Jours* might be held, and also the bailiffs and seneschals, should be present, to see that the decisions of the courts were carried into execution.

Before the parliament of Brittany was made a sovereign court, the parliament of Paris used to send deputies every year, to hold the *Grands-Jours* at Rennes and Nantes.

Besides the *Grands-Jours* held by the sovereign courts, the name of *Grands-Jours* was given to some tribunals which were established by various princes and *seigneurs*, to decide on appeals from the judges of their respective jurisdictions.

Such were the *Grands-Jours* of the queen, the *enfans* and *petits-enfans de France*, and of other princes and peers, and of divers *seigneurs*, both lay and ecclesiastical.

Blanchard, in his *Table des Ordonnances*, mentions some *Grands-Jours* which several dukes, counts and peers, and other *seigneurs*, held by the king's leave in their lands, such as the Dukes of Anjou, Orleans, Angoulême, Auvergne, Berry, the Bourbonnais, Châtelleraut, Montmorency, the Counts of Clermont in Auvergne, Clermont in Beauvoisis, Main, Poitou, Soissons, Vertus, &c.

Grands-Jours are no longer held in France.

The only printed decisions of the *Grands-Jours*, that the compiler of this Catalogue has been able to find, are those of the *Grands-Jours* of Troyes, Poitiers and Clermont. Brussel, in his work on Fiefs, vol. i. p. 218, mentions a manuscript register of the *Grands-Jours* of Champagne, which begins in 1284 and ends in 1295; and he quotes several decisions of the court of the *Grands-Jours* from that register.

Grands-Jours of Troyes.

QUELQUES ARRÊTS de la Cour des Grands-Jours, séant en la ville de Troyes, depuis le 10 Septembre jusqu'en Décembre, 1583. 8vo. Troyes, 1583.

Grands-Jours of Poitiers.

LETTRES-PATENTES DU ROI, et Arrêts des Grands-Jours de Poitiers, depuis 1634 à 1635. 8vo. Poitiers, 1634.

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1. RECUEIL DES ARRÊTS, &c. de la Cour des Grands-Jours tenus à Clermont. 4to. Clermont, 1666. *Reports of cases, &c.* *Grands-Jours of Clermont.*

The decisions of the *Grands-Jours* held in Auvergne in 1665—66 will also be found at the end of the second volume of the *Coutumes du haut et bas pays d'Auvergne*, with Du Moulin's and Probet's notes, &c. 2 vols. 8vo. Clermont-Ferrand, 1745, and 4to. 1770.

2. MÉMOIRES DE FLÉCHIER sur les Grands-Jours tenus à Clermont en 1665—66, publiés par B. Gunod, bibliothécaire de la ville de Clermont. 8vo. Paris, 1844.

These *Mémoires* are by the celebrated Bishop of Nismes, and are not to be found in the collections of his works. This work is very interesting.

The *Grands-Jours* were held seven times in Auvergne, as follows:—at Monferrand in 1454, 1481 and 1520; at Riom in 1542 and 1546; and at Clermont in 1528, 1665—66.

GRAND-CONSEIL.

1. BOTHEREIUS, — Semestrium Placitorum magni Concilii quæ ad Beneficiorum singulares controversias pertinent liber 1. 8vo. Paris, 1606. *Grand-Conseil. Decisions.*

Raoul Boutraye, or Boutterais (in Latin Bothereius), an advocate in the *Grand-Conseil*, was born at Château-Dun about 1552, and died in 1630. He was author of other works besides the present.

2. JOURNAL DU GRAND-CONSEIL, par Moussier, substitut du Procureur-général au Grand-Conseil. 4to. Paris, 1764.

The decisions comprise the years 1760—62.

LA JURISPRUDENCE DU GRAND-CONSEIL examinée dans les Maximes du Royaume, [par Goezman]. 2 vols. 8vo. Avignon, 1775. *Jurisprudence.*

CHÂTELET.

ACTES DE NOTORIÉTÉ, donnés au Châtelet de Paris, avec des Notes, par Denisart. 4to. Paris, 1769. *Châtelet of Paris.* *Actes de Notoriété.*

This is the best edition of these *Actes*, which were first published by Le Camus.

Jean le Camus, *lieutenant-civil* in the *Châtelet* of Paris, was born about 1637, and died on the 28th July, 1700.

Actes de Notoriété were certificates or official documents, whereby the officers of a court, upon being consulted on a subject, after taking the advice of the advocates and practitioners of the court, gave an account of, or reason for, a custom or practice of their court.

REPORTS OF CASES, &c.

COUR DES MONNAIES.

Court of the Mint.

ŒUVRES POSTHUMES DE GLATIGNY, Avocat-général à la Cour des Monnaies de Lyon, contenant ses harangues au Palais, ses discours académiques, &c. 8vo. Lyons, 1757.

A collection of De Glatigny's works, consisting of harangues, &c.

Gabriel de Glatigny, advocate-general in the court of the Mint at Lyons, was born in that city in 1690, and died there in 1755.

For an account of the various courts of law, see the headings, among the treatises in this part of the French division of the Catalogue,—"Administration of Justice," "Courts of Law," and "Parliaments."

The compiler of this Catalogue is not aware that there are any other separate collections of the decisions of the above courts, besides those which he has noticed, or that there exist any separate collections of the decisions of the other sovereign courts.

iii. *Celebrated Causes or Trials, &c.*

CELEBRATED CAUSES, &c.

CAUSES CÉLÈBRES et intéressantes, avec les Jugemens qui les ont décidées; nouvelle édition, revue, corrigée, et augmentée de plusieurs Pièces importantes qu'on a recouvrées. 20 vols. 12mo. Paris, 1739—50.—CONTINUATION DES CAUSES CÉLÈBRES et intéressantes. Avec les Jugemens qui les ont décidées. Par M. J. C. de la Ville, Avocat au Parlement de Paris, &c. 4 vols. 12mo. Amsterdam, 1768—71.

This is the well-known collection of *Causes célèbres*, or celebrated trials, which was first compiled by Gayot de Pitaval, and published in 20 vols. 12mo. 1734—43.

De Pitaval, an advocate in the parliament of Paris, was born in 1675, and died in 1743.

The compiler of this Catalogue has added (by way of supplement), at the end of the Continuation, a notice of some causes taken out of the edition published by Richer in 22 vols. 12mo. Paris, 1772—88, which are not in this edition, nor in the Continuation. The causes are not given so much at length in Richer's edition as in the present. The present edition has also notes, a dedication &c.; and each volume has an index and in general an *avertissement*. Many of the causes are termed histories. Each volume of the Continuation has an index, and the first volume has a preface. The number of causes in the Collection, Continuation and Supplement is 168. The causes marked with an asterisk * in the Collection and Continuation are contained in the *Abrégé des Causes célèbres*, noticed in this part of the Catalogue, at p. 114. The subject-matter of every cause, and the year in which it was decided, are as follows:—

Vol. I.—*1. History of the false Martin Guerre (1560).—This cause

was first reported by Coras, and is to be found in his works, in 2 vols. fol. Witteberg, 1603. 2. History of Renée Corbeau, who by her eloquence prevented the execution of the sentence of death pronounced against her lover (1593). *3. History of the beggar of Vernon (1659).—This and the first cause are extraordinary cases of personal resemblance. 4. A *plaidoyer* for a physician who claimed to be exempt from serving the office of tax-gatherer (about 1659). *5. Case of a child that was claimed by two mothers, or the cause of St. Géran (1666). *6. History of the Marchioness of Brinvillier, the celebrated poisoner (1676). *7. History of the Sieur d'Anglade and his wife, falsely accused of robbery (1687).

Vol. II.—*8. History of the false Caille, or Pierre Mège (1712).—This is another case of personal resemblance. *9. History of Urbain Grandier, condemned as a magician (1634).

Vol. III.—*10. History of the Sieur de la Pivardière (1701). *11. History of the Sieur Beausergent and Magdeleine Jollivet (1701). *12. History of the beautiful grocer—a case of adultery (1701). *13. History of Le Brun, executed for a murder of which he was guiltless (1690). 14. Case of a singular will (1683).

Vol. IV.—*15. History of Madame Tiquet (1699). *16. The annulling of a legacy, or the case of the Demoiselle Gardel and the Marquis of Boutteville (1727). 17. History of the judges of Mantes (1699). *18. The *cause de Dieu* (1726). *19. History of the Dame de Liancour, and of the cruel outrage inflicted on her by the Marchioness of Tresnel (1693). 20. The ill-sorted marriage, or the case of Dame Anne-Christine Gomès and Messire Romain de Kinglin her husband (1711)—this is a *mémoire*. 21. The marriage set aside, or a *mémoire* for the Sieur de Saint-Jory against the Demoiselle de Châtillon (1712). 22. Case of a girl that was falsely represented to be an hermaphrodite (about 1691). 23. Case of a dispute between a bailiff and a king's attorney, &c. (1724). 24. Whether proof ought to be allowed in respect of the negotiation of shares in the *Compagnie des Indes* (1724). 25. Petitions to the king.

Vol. V.—*26. The history of Charles-François Harroüard, who was disowned both by his father and mother (1713). *27. History of Marie Cognot, who was disowned both by her father and mother (1638). *28. History of the *Abbé* de Mauroy (1693). 29. Case of a daughter who was claimed by two mothers (1713). *30. History of the Marchioness of Gange,—case of a murder (1667). 31. Case of a girl, who lost her teeth through the *lues venerea*, and brought an action against her surgeon, &c. (1732). 32. Critique and anti-critique upon the funeral sermon on Madame Tiquet. 33. Contestation between two oculists (1734). 34. Case of a bill of exchange (1722). 35. Case of an attorney that was condemned in costs for bad conduct—anecdotes of attorneys (1727). 36. Petitions in rhyme.

Vol. VI.—*37. History of the suit between Saurin, of the French Academy of Sciences, and Rousseau, of the Academy of *Belles-Lettres* (1712).—This cause created a considerable sensation at the time.

REPORTS OF CASES, &c.

Celebrated Causes, &c.

*38. History of Louis Gaufridy, a priest that was burnt for sorcery, by a decree of the parliament of Provence (1611). *39. Case of a girl (a *religieuse*) who was reputed to be an hermaphrodite (1661). 40. Case of confirmation of a marriage, in a cause between the Count de Bussy-Rabutin, the Dame de Coligny his daughter, and the Sieur de la Rivière her husband (1684). *41. History of Mademoiselle de Choiseul (1726).

Vol. VII.—*42. Case of a marriage that was annulled, after twenty-four years' cohabitation and the death of the wife (1682). *43. Case of confirmation of a donation made to a concubine, or the history of the Demoiselle de Grand-Maison and the Sieur de Perraud (1730). 44. A case of sharpers (about 1716). 45. Case of a box on the ears given to a pretty woman. 46. Case of a dispute between a nobleman and a private individual, or a *mémoire* for the Sieur de la Ribordière against the Count of Nogent (1732). *47. Case of an adulteress, who was condemned to the loss of her liberty, which she recovered nevertheless by a second marriage after the death of her husband (1673—84). *48. Case of a forged will (1728). *49. Case of a child that was claimed by two mothers (1727). 50. Case of a legacy, bequeathed under a condition, which was held to be *contra bonos mores*. 51. Case of ungrateful children (1725).

Vol. VIII.—52. History of Cinq-Mars and De Thou, both executed for a conspiracy against Cardinal Richelieu (1642). *53. Case of an inspection (*le congrès*) to ascertain the fact of impotency, in a cause between the Marquis of Langley and his wife (1677).—The title to this cause is "*congres aboli.*" *54. Case of a refusal to admit a canon on account of his diminutive size (1733). 55. Case where proof testimonial was not admitted (1730).—Several celebrated decisions handed down by history, and others but little known.

Vol. IX.—*56. History of Frillet, a fiscal procurator, who was convicted of subornation of witnesses and prevarication (1733). *57. Suit for the re-establishment or restitution of a marriage,—*demande en réhabilitation de mariage* (1708). *58. History of a bigamist, after whose death a dispute arose between his two wives as to the validity of their marriages, and the *status* of their children (1707). *59. Case of certain clergymen who were punished for their disorderly behaviour, or the history of the Sieurs des Rues and Merlier (1727). 60. History of a pretended marriage between the Countess of Bossu and the Duke of Guise (1666).

Vol. X.—*61. History of the Chevalier de Morsan, or the husband that was accused of bigamy (1736). *62. Case of an intended gift of a collection of books, by M. de Normand, bishop of Evreux, in favour of his clergy (1735). *63. Case of a girl who wished to change her *status* of legitimacy for that of bastardy (1727). *64. Suit to annul a marriage (1728). 65. Case of a father that was disowned by his daughter (1734). 66. A decree in favour of the *Comédiens François* (1709).

Vol. XI.—67. History of the constable of Bourbon, adjudged a rebel to the king and state (1527).—He stormed Rome in 1527, and was

killed at the beginning of the assault. *68. Case of a girl who was condemned for sorcery (about 1653). *69. Case of a spectre (1729). *70. Suit to set aside a marriage made *in extremis* (1736). *71. Suit to annul religious vows made by a young man on compulsion (1729).

Vol. XII.—72. Case of the Marchioness of Sassy, who was accused of the murder of her husband (1706). *73. History of Jean Maillard, or the case of a husband who returned after an absence of forty years, and accused his wife of adultery and bigamy (1674). 74. Case of Don Carlos, son of Philip II. of Spain (1568).—He was condemned to death by his father. 75. Case of Alexis-Petrowitz, Czarowitz, heir-apparent to the crown of Russia (1718). 76. The *Majorat de Rye*.—This is a curious case of entail (1723).

Vol. XIII.—77. History of the Duke of Montmorency, adjudged a rebel to the king and state (1632).—He was executed for conspiracy against Cardinal Richelieu. *78. History of Mademoiselle Ferrand (1736). *79. Case of a claim of liberty made by a slave against his master, who had brought him into France (about 1739).—This is an important case.

Vol. XIV.—*80. History of the marriage of Mademoiselle de Kerbabu, a case of the annulling of a marriage (1734). *81. Case of a girl under age, who took the vow contrary to the wishes of her father and mother (1685). 82. History of the dispute between Hortence Mancini, Duchess of Mazarine, and her husband.—This cause created a great sensation at the time. 83. A *mémoire* for Marguerite Avrillon, who sued for a separation *d'habitation* against her husband, François de Sorny (1711).

Vol. XV.—84. Suit respecting the filiation of the Sieur de Sasilly (1735). 85. History of an opera coquette. 86. Case concerning the marriage of *La belle Tourneuse* (after 1695). 87. Case of a celebrated actress, who appealed against her marriage (1692). *88. Case of confirmation of the copy of a soldier's will (about 1634). *89. Question as to whether a crime is extinguished after a civil death of thirty years, &c. (1737).—This is a very curious case.

Vol. XVI.—90. History of the dispute between Furetière and the French academy.—Furetière was excluded from the academy in 1685. 91. Concerning the right of the advocates and physicians of Lyons to assume the title and quality of noblemen, &c.—Some curious anecdotes about advocates. *92. History of a parricide committed by two children, with the participation of their mother (1714). 93. Condemnation and execution of Charles I. (1648).

Vol. XVII.—94. History of the birth of the Demoiselle de Sfrondate, and of the filiation claimed by her,—decided by the supreme court of Turin (1714). 95. History of Mary Stuart, Queen of Scotland (1587). 96. Case of a claim of filiation made by the Dame de Bruys (1737)—this is a very curious case. 97. A case of seduction (1740).—A supplement to the *Causes* concerning the *séparation d'habitation et de biens*, in Vol. XIV.

Vol. XVIII.—*98. The will of M. le Camus, *lieutenant-civil*, annulled

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(1712). 99. A will made by a man who fancied himself to be a girl, annulled (1739). *100. Case of the condemnation of some Jews for an atrocious crime, &c. (1670). 101. The well-known case of Robert Count of Artois (1331).—A supplement to the will of the man who fancied himself to be a girl (No. 99).

Vol. XIX.—102. History of Joan of Arc (1431).—See the proceedings on this trial, *infra*, p. 116. 103. Case of a will that was annulled (1691). 104. Case of a secret marriage (1740). 105. Case of a woman who was accused of adultery (1740). *106. Case of a brutal assault on a girl (1741).

Vol. XX.—107. History of the Marshal de Gié, who was accused of high treason, &c. (1505). *108. The advantage of *la possession d'état*, or of having a *status* (1729). *109. A case of dowry (1741). *110. Case of a beneficed clergyman, who was admitted in spite of the uncertainty as to his birth in the kingdom, his legitimacy and baptism (1732). 111. Case of the murder of a person whose wife and brother accuse each other, while the person, who might be reasonably suspected, makes his escape, and is not pursued (about 1703).

THE CONTINUATION.

Vol. I.—112. Suit between Catherine-Henriette, daughter of Henri IV. and Gabrielle d'Estrées, and her brother the Duke of Vendôme (1651). 113. Suit between Anne Allard and her children, and Claude de Verré de Chauvigny her mother, &c. (1656). 114. Suit between Anne des Places, the wife of Georges Carrel, and Catherine Carrel, as to which of them was the mother of a child (1659). 115. Suit between Jeanne Morineau and her daughter, and Pierre Faucheux and others (1669). 116. Suit between the Viscounts of Boscq and others, and the *Abbé* of Psalmody and others (1665).

Vol. II.—117. Suit between the widow of the Cardinal de Châtillon and the cardinal's heirs (1606). 118. Suit between the Sieur de la Motte, the Archbishop, &c. of Rouen, and the widow and daughter of the Baron de Montmorency-Hallot (1608). 119. Suit between the Demoiselle Renée de Villeneuve and those who claimed to be heirs to her father,—case of a birth after eleven months gestation (1653). 120. Suit between Alexandre d'Hallewin and Jeanne de Blecourt, &c. touching the duchy of Hallewin (1659).

Vol. III.—Suit between Claude Chevalier, widow of Christophe d'Aubriot, and their children, and Madame de Bonneval (1658). 121. Suit between Michelle Penchet, wife of Pierre Suget, and her daughter, and the *Abbé* de Clairvaux (1763).—This and the preceding case involve questions as to taking the vow.

Vol. IV.—122. The celebrated case of the Calas family (1762).

SUPPLEMENT to the Collection and Continuation. [From Richer's above-mentioned edition.]

Vol. I. 123. A cause tried before Henri IV. and the Duke of Savoy (1600).—On the conclusion of the speech for the plaintiff, Henri declared in his favour; and on the conclusion of the speech of the

defendant's advocate, he declared for the defendant, and said that they were both right. A similar anecdote is related of James I. of England.—124. Curious stratagem employed by a *lieutenant-criminel* of Rouen to convict an assassin. 125. Case of an attempt to palm a son on a woman, who had never had a child (1686). 126. Case of the legitimation of a clergyman's children (1675).

Vol. II.—127. History of the Nun La Cadière and the Jesuit Girard (1731).—There is an extensive publication on this curious affair, under the title of *Recueil des Pièces du Procès du Père Girard et de la Demoiselle Cadière*, printed at the Hague in 1731, in 8 vols. 12mo. and 2 vols. folio.

Vol. III.—128. The Sieur d'Arconville justified (about 1571). 129. Case of a child, that was born in adultery, being declared legitimate,—a curious case; the husband had been absent for seven years (1653).

Vol. IV.—130. The wife of two husbands; the first husband had been absent for thirteen years (1648). 131. Case of impotency,—the man inflicted a punishment on himself (1630). 132. Case of a sorceress,—the ordeal of water (1594). 133. Case of incest (1603).

Vol. VII.—134. Case of concealed birth.—This is a very curious case; it occurred in 1624—25; it is intitled *coupable échappée au supplice*. 135. Case of the legitimation of children born in adultery (1669). 136. Case of a bastard's children being declared capable of inheriting their grandfather's property.—This cause is to be found in De Montholon's collection of the decisions of the parliament of Paris, *ante*, p. 93.

Vol. IX.—137. Case of Madame Tocquelin and her husband (1724). 138. Whether a child born in adultery can be legitimated (1693). 139. Case of the marriage of a woman with a deceased sister's husband (1683). 140. Case of a clergyman committing an act of adultery (1683).

Vol. X.—141. Case of the inspection of a man aged seventy (1673). This cause is intitled *Demande en congrès*, &c. 142. Case of prosecution for a crime after a lapse of twenty years (1599).

Vol. XI.—143. Case of a girl who was married against her father's consent (1748).

Vol. XII.—144. Case of Marie Moranvalle (1730). 145. Case of *La Belle Tonnelière* (1765). 146. Case of the one hundred and one pictures,—a trick of the Jesuits (1729). 147. Case of the Sieur Grillet (about 1714). 148. History of the Will of M. Germain de Saint-Genys (1729).—These two causes arose also out of the knavery of the Jesuits.

Vol. XIII.—149. The trial of the Jesuits in respect of their commercial transactions (1761).—Soon after this celebrated trial, the Jesuits were expelled from France and other countries of Europe.

Vol. XV.—150. Case of a girl that was cheated by a fortune-hunter (1748). 151. Case respecting the *status* of the children of a person who was hanged in effigy (1745). 152. Case of the legitimation of the children of a sub-dean and an abbess (1668).

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Vol. XVI.—153. Case of protracted gestation,—eleven months and twenty-three days (1758). The child was declared to be a bastard. 154. Another case of protracted gestation,—ten months and nine days (1649). The child was declared to be legitimate. 155. Some *Jugements claustraux* (1760). 156. Case of a woman that was deprived of her dower for adultery (1656).

Vol. XVII.—157. Case of a mother who was condemned to pay for the ransom of her son from slavery (1664). 158. Case of a Protestant who returned to the Romish religion, for the purpose of annulling his marriage (1664). 159. Case of a father who accused his son's wife of adultery (1665). 160. Case of a woman who mutilated the assailant of her chastity (1729).

Vol. XVIII.—161. Case of the marriage of a nun (about 1646).

Vol. XIX.—162. The celebrated Douglas cause, decided by the House of Lords, in 1769.

Vol. XX.—163. Condemnation of a Romish priest for murder (about 1786). 164. Case concerning the rights of vicars (1779).

Vol. XXI.—165. An action for slander (1778). 166. History of Mandrin, a notorious robber—this case is very curious (1755).

Vol. XXII.—167. Case of a chevalier of the Order of St. Louis claiming the decoration or cross of the order (1787). 168. Case arising out of Fontenelle's will (1758).

ABRÉGÉ DES CAUSES CÉLÈBRES ET INTÉRESSANTES, avec les Jugemens qui les ont décidées. Par le Sieur P. F. Besdel. 3 vols. 12mo. Paris, 1787.

An abridgment of several of the most important or interesting of the *Causes Célèbres*. In order to avoid repeating the causes here, an asterisk * has been put against such of the causes, in the above collection in 20 volumes, as are inserted in this abridgment.

Each of these three volumes has an index of the cases, and the first volume has a short preface or introduction.

CAUSES AMUSANTES ET CONNUES. Par M. [Louis-Théodore Hérissant.] 2 vols. 12mo. Berlin (Paris), 1769—70.

This is a collection of droll *mémoires* or arguments for plaintiffs or defendants in causes. They are often accompanied by a statement of facts (*le fait*), and what is called *les moyens*. They are written in a light and pleasant style, and are very amusing. The name of the advocate, who composed each *mémoire*, is given in every case. Each volume contains, in addition to the *mémoires*, a collection of legal anecdotes, a preface and curious plates. The judgment of the court in each case is given, where it could be ascertained, as well as the year in which it was decided. The

causes for which the *mémoires* (which are thirty-seven in number) were written, are as follows :—

Vol. I.—1. Case of a dispute between a nobleman and a private gentleman (1731).—This is No. 46 of the *Causes célèbres*. 2. Case of the surgeon-oculists (1734).—This is No. 83 of the same Causes. 3. Case of Mademoiselle de Lécluse (called de Mereueil), the actress. 4. Case of a clyster,—this is very laughable. 5. Suit between the corporation of sausage-makers, &c. and the corporation of pastry-cooks, &c. 6. Suit between a wholesale grocer and a mustard-seller. 7. The *Mémoire de l'âne*. 8. Case of striking a neighbour's servant (1752). 9. Case of the charcoalmen and the corporation of coblers. 10. Case of the *pain béni*. 11. Case of the blind man and his wife. 12. Case of breaking open a wine cellar. 13. Case of a mountebank,—this is very droll. 14. Case of a quarrelsome neighbour. 15. Case of the lanthorns of Paris (about 1770). 16. Case of a promissory note. 17. Case of a thwarted marriage. 18. Case of the painter and the apothecary. 19. The barber's case. 20. *Factum* for Mademoiselle Petit, a dancer.—Anecdotes.

Vol. II.—21. Case of the knight of Malta and the opera dancer. 22. Answer of M. de la Rivière to the libels of Count Bussy-Rabutin. This case is No. 40 of the *Causes célèbres*. 23. Case of Rameau, the musical composer, and the magistrates of Dijon (about 1754). 24. Two cases of quarrels between husbands and wives. The latter is No. 20 of the *Causes célèbres*. 25. Case of a suspected robbery. 26. Case of the architect and actress. 27. Suit between the actress and the *maître de ballet* (1766).—This was a suit to set aside a marriage. 28. Case of the apothecaries and the *merciers-épiciers*. 29. Case of the turkies. 30. A case of pretended seduction (1766). 31. Action against a player for clothes, &c. (1760), —this is very curious. 32. Case of the trumpeters (about 1758). 33. Case of the wig-makers (1724). 34. Suit for libel (1758). 35. Action for the restoration of an enamelled gold watch (after 1758). 36. Another *mémoire de l'âne*,—this is the same cause as No. 7. 37. Answer to the *factum* of Mademoiselle Petit—See No. 20.—Anecdotes.

There is another large collection of Causes, intitled *Journal des Causes célèbres*, &c. which was compiled by Des Essarts and Richer, beginning in 1773 and ending in 1789; it was published at Paris, in 196 vols. 12mo. 1773—1789.

CAUSES GRASSES.

These were fictitious causes that were argued, by way of recreation and merriment, by the advocates in the greater part of the tribunals of the kingdom (both the Parliaments and the other Sovereign and Presidial Courts), on every Shrove Tuesday. The subject-matter of every cause was either a rape, a lying-in, a case of adultery or impotency, or of some trick played on a husband, or any other matter that might give scope to facetious remarks. These causes were called *grasses*, either on account of the *gras* day on which such exhibitions (for

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such they must be called) took place, or on account of the *grasse* or gross subject-matter of the causes themselves. Great crowds of persons usually attended these jocund meetings; and it may reasonably be supposed that the advocates were not backward, on such occasions, in availing themselves of the licence allowed both by the season and the subject. It is stated by some authors, that De Lamoignon, first president in the parliament of Paris, was displeased with these jocose doings, and that he forbade them; they were nevertheless continued after his death. Two specimens of these Causes will be found noticed in this part of the Catalogue; the one, in Expilly's works (8th *plaidoyer*), and the other in Henry's works (6th *plaidoyer*). Many writers on this subject are inclined to attribute the pleading of these causes to the *clercs de la Bazoche*, but this opinion is erroneous. An account of the privileges and of the exploits of the subjects of the kingdom of the Bazoche (for such was the appellation of the jurisdiction of the *clercs de la Bazoche*), will be found in this part of the Catalogue under the heading "COURTS OF LAW."

To the CAUSES GRASSES may be added the PLAIDOYERS BURLESQUES of Jacques Capel, printed in 1561; two PLAIDOYERS between M. Procès and M. Bonaccord, printed at Paris, in 8vo. 1570; and a PLAIDOYER on the *Principauté des Sots*, with the judgment of the court thereon, printed at Paris in 1608.

Trial of the Templars.

PROCÈS DES TEMPLIERS, publié par M. Michelet, Membre de l'Institut de France, Professeur au Collège Royal de France, etc. 5 vols. 4to. Paris, 1841.

The celebrated trial, or rather persecution, of the Knights Templars, which took place at Paris in 1309, before the commissaries of Pope Clement V. The first volume, and the beginning of the second (the only parts which the compiler has seen) comprise, according to the introduction to the first volume, the interrogatories put to the grand-master of the Templars, and to 231 knights and *frères-servants* of the order. The interrogatories are in Latin. The names of the commissaries are given at the beginning of the 1st volume, together with a copy of the Pope's commission. These volumes form part of the *Collection des Documens inédits sur l'Histoire de France.*—1^e^ *Série, Histoire Politique.* A full account of this cause will be found in Mezeray's *Histoire de France*, vol. i. and in Sismondi's *Histoire des Français*, vol. ix. There is an introduction and an index.

Trial, &c. of Joan of Arc.

PROCÈS DE CONDAMNATION ET DE RÉHABILITATION DE JEANNE D'ARC, DITE LA PUCELLE. Publiés pour la première fois d'après les manuscrits de la Bibliothèque Royale, &c. par M. Jules Quicherat. 4 vols. 8vo. Paris, 1841—47.

The proceedings on the trial and condemnation of Joan of Arc, with the proceedings for her rehabilitation, published for the first time by Quicherat. The first volume comprises the proceedings on the trial, &c., and the second the subsequent proceedings for the clearing of her memory. The fourth

volume contains contemporary and other historical illustrations. This is one of the publications of the *Société de l'Histoire de France.*

Jeanne d'Arc, commonly called the Maid of Orleans, was born at Domremy, near Vaucouleur, in 1410, and was cruelly put to death in 1430.

RECUEIL DES PIÈCES DU PROCÈS DE FOUQUET. 15 vols. 12mo. Amsterdam, 1665. Trial of Fouquet.

Nicolas Fouquet, superintendent of the finances from the year 1652 to 1661, was born at Paris in 1615, and died on the 23rd March, 1680. The crimes imputed to him were treason and malversation in office.

PIÈCES ORIGINALES DE LA PROCÉDURE DE DAMIENS. 4 vols. 4to. Paris, 1757. Trial of Damiens.

The proceedings on the trial, &c. of Damiens, for an attempt to kill Louis XV.

Robert-François Damiens was born at Tieulloy, in the diocese of Arras, about the beginning of the 18th century, and was put to death in 1757.

Another work was published on this subject, in 12mo. 1760, intitled *Les Iniquités découvertes, ou Recueil de pièces curieuses et rares qui ont paru lors du Procès de Damiens.*

MÉMOIRE POUR LE COMTE DE LALLY-TOLLENDAL, etc. 3 parts, 4to. Paris, 1766.

Dupin enumerates about seventeen other pieces relating to this trial, the earliest of which is dated in 1766, and the latest in 1782. Trial of Lally-Tollendal.

Thomas-Arthur Count of Lally-Tollendal was born in Dauphiny in 1702. He was of Irish extraction; was appointed commander in chief of the French forces in India; and, being unsuccessful, was on his return to France put to death in 1766. An ample account of Lally-Tollendal will be found in the *Biographie Universelle*, article "Lally." The sentence of condemnation was reversed in 1778, and Lally-Tollendal's memory was formally cleared in the following year.

HISTOIRE DU COLLIER, &c. 8vo. Brussels, 1786.

This is a collection of *Mémoires*, &c. relating to the celebrated Necklace Case in 1785.

PROCÈS DES BOURBONS.—PROCÈS DE LOUIS XVI., Roi de France, etc. Suivi des Procès de Marie-Antoinette, Reine de France; de Madame Elizabeth, sœur du Roi; et de Louis-Philippe, Duc d'Orléans, etc. Par un Ami du Trône. 2 vols. 8vo. Paris, 1814. Trial of Louis XVI. &c.

The trials of the Bourbons, that is to say, of Louis XVI., his queen Marie-Antoinette, his sister Madame Elizabeth, and Louis-Philippe, Duke

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of Orleans, father of Louis-Philippe, the late King of the French. The compiler or editor styles himself "Friend of the Throne." The volumes comprise a list of the *appels nominaux*, and also the votes, &c. (*opinions motivées*) of the several members of the National Convention concerning the condemnation of the king, together with some unpublished documents relating to the imprisonment of the royal family in the Temple.

5. DIGESTS AND DICTIONARIES.

Papon's *Corpus Juris.*

CORPUS JURIS FRANCICI, seu absolutissima Collectio Arrestorum, sive rerum in Supremis Franciæ Tribunalibus Parliamenti judicatarum. Auctore viro clarissimo Joanne Paponio, Consiliario Regio, etc. Fol. Geneva, 1624.

A digest of the laws by Papon.

Jean Papon, master of the requests to Catherine de Medicis, was born at Croiset in 1505, and died at Montbrison in 1590. He wrote a commentary on the customary laws of the Bourbonnois, and another work on French law, which bears the title of *Le Notaire.*

The present work is a translation of the original, which first appeared in French in 1556, under the title of *Recueil d'Arrests notables des Cours Souveraines de France, etc.* There are notes by Bergeron, several additions, a prologue and two indices.

REMARQUES DU DROICT FRANÇOIS, confirmées par Loix, Ordonnances Royaux, Arrests des Cours Souveraines, etc. Recueillies des escrits et Mémoires de plusieurs hommes doctes par un Savant et fameux Advocat au Parlement de Tolose, &c. 4to. Lyons, 1614.

This is an alphabetical digest of the laws, by an advocate in the parliament of Toulouse; it has a dedication and an index.

Bouchel's Digest.

LA BIBLIOTHÈQUE, OU THRÉSOR DU DROIT FRANÇOIS. Auquel sont traictées les matières Civiles, Criminelles, et Bénéficiales, tant réglées par les Ordonnances et Coustumes de France, que décidées par Arrests des Cours Souveraines: sommairement extraictes des plus célèbres jurisconsultes, et practiciens François, et conférez en plusieurs endroits avec les Loix et Coustumes des Nations estrangères. Le tout recueilly, et mis

en ordre, et de nouveau augmenté par M. Laurens Bouchel, Advocat en la Cour de Parlement. 3 vols. fol. Paris, 1629.

Bouchel's Digest.

A digest or abridgment in alphabetical order of the laws of France, under the title of "The Library or Treasury of French Law," by Laurent Bouchel, an advocate in the parliament of Paris. It is a work of great authority.

The present work treats of civil and criminal matters, and those relating to benefices; it contains royal ordinances and letters, decisions of the courts, warrants, and numerous other documents, *plaidoyers* of advocates, extracts from various statutes and laws of foreign nations, historical accounts of the courts, chancellors, orders of knighthood, &c. There are three dedications, and several addresses to the reader; and each volume has an index of the subjects treated on therein.

Bouchel was author of several other works both legal and historical; among these is his *Somme Bénéficiale*, a new and improved edition of which was published by Blondeau, in 2 vols. fol. Paris, 1689, under the title of *La Bibliothèque Canonique de Laurent Bouchel*, &c. His reports of cases decided by the parliament of Paris are noticed *ante*, p. 93.

Bretonnier's Collection, &c.

Recueil par ordre alphabétique des principales Questions de Droit, qui se jugent diversement dans les différens tribunaux du Royaume, &c. Par M. Bretonnier, ancien Avocat au Parlement. 5e Édition, augmentée, &c. par M. Boucher d'Argis, écuyer, Avocat au Parlement. 4to. Paris, 1783.

This is a collection by Bretonnier of questions of law, showing the conflict of decisions in the various provinces of France; with suggestions for making the practice of the various courts uniform. The subjects selected are the ordinary legal matters, as dower, substitutions, wills, guardianship, &c. This edition contains an *avertissement*; a preface, wherein an account is given of the different reporters (*arrêtistes*) of the decisions of the parliaments of France; a list of the provinces governed by the Roman law; indices and notes.

Barthélémi-Joseph Bretonnier was born in 1656, and died in 1722. He edited Henrys's works.

Brillon's Dictionary.

Dictionnaire des Arrêts, ou Jurisprudence universelle des Parlemens de France, et autres Tribunaux, contenant, par ordre alphabétique, les matières bénéficiales, civiles et criminelles, etc. Par Pierre-Jacques Brillon. 6 vols. fol. Paris, 1727.

A digest of the law by Brillon, an advocate in the parliament of Paris, who was born about 1674, and died on the 30th July, 1736.

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Denisart's Digest.

COLLECTION DE DÉCISIONS NOUVELLES, et de Notions relatives à la Jurisprudence actuelle; par M. J. B. DENISART, Procureur au Châtelet de Paris. 7th edit. 4 vols. 4to. Paris, 1771.

A digest of the laws by Denisart, a *procureur* in the *Châtelet* at Paris. This is the seventh edition of the work; a new edition was begun by Camus and others, fourteen volumes of which (reaching only to the word *Hypothèque*) were published at Paris, in 4to., between 1783 and 1808. The arrangement of the work is alphabetical.

Jean-Baptiste Denisart was born near Guise in 1712, and died at Paris on the 4th February, 1765. He published the *Actes de Notoriété du Châtelet*, of Jean Le Camus, in 4to. Paris, 1769; and also composed a work entitled *Almanach des Plaideurs*.

Guyot's Repertory.

RÉPERTOIRE UNIVERSEL et raisonné de Jurisprudence Civile, Criminelle, Canonique et Bénéficiale, &c. 81 vols. (including 17 supplementary volumes). 8vo. Paris, 1775—86.

This digest was edited by Pierre-Jean-Jacques-Guillaume Guyot, a native of Orleans, and afterwards a judge of the tribunal of Cassation. It was reprinted at Paris in 17 vols. 4to. 1784-5. M. Merlin, having become the proprietor of this work, published a new edition of it in 1807 and the following years, in 13 vols. 4to., wherein he has incorporated the new legislation with the old, and suppressed much of the old law that was no longer applicable. See the modern part of this division of the Catalogue, article *Répertoire universel et raisonné de Jurisprudence*.

Ragueau's Glossary.

GLOSSAIRE DU DROIT FRANÇOIS, contenant l'explication des mots difficiles qui se trouvent dans les Ordonnances de nos Roys, dans les Coustumes du Royaume, dans les anciens Arrests et les anciens Tîtres. Donné cy-devant au Public sous le nom d' "INDICE DES DROITS ROYAUX ET SEIGNEURIAUX," par M. François Ragueau, Lieutenant du Bailliage de Berry, au Siège de Mehun, et Docteur Régent en Droit en l'Université de Bourges. Revû, &c. par M. Eusèbe de Laurière, Avocat au Parlement. 2 vols. 4to. Paris, 1704.

This is a valuable edition of Ragueau's useful glossary of old French law terms, &c.

The first edition of this work was published in 1585, under the title of *Indice des Droicts Royaulx et Seigneuriaulx*, &c.

François Ragueau, at one time professor of law at Bourges, was born about the middle of the sixteenth century, and died in 1605.

DIGESTS AND DICTIONARIES.

De Ferrière's Dictionary.

DICTIONNAIRE DE DROIT ET DE PRATIQUE, contenant l'explication des termes de Droit, d'Ordonnances, de Coutumes et de Pratique. Avec les Jurisdictions de France. Par M. Claude-Joseph de Ferrière, Doyen des Docteurs-Régens de la Faculté des Droits de Paris, et ancien Avocat en Parlement. Nouvelle édition, revue, corrigée et augmentée, par M. [Boucher d'Argis.] 2 vols. 4to. Paris, 1755.

A most excellent dictionary of the old French law, by Claude-Joseph de Ferrière. The last edition of this work was published at Toulouse, in 2 vols. 4to. 1787. The work first appeared under the title of *Nouvelle Introduction à la Pratique, contenant l'explication des termes de Pratique, de Droit, et de Coutume*, &c. 2 vols. 12mo. Paris, 1729.

Claude-Joseph de Ferrière, dean of the law faculty of Paris, flourished in the seventeenth and eighteenth centuries.

Some other compilations, &c. of his are noticed in this Catalogue.

6. BOOKS OF PRACTICE, &c. FROM THE YEAR 1500.

i. *General Treatises.*
ii. *Treatises on Civil Law Practice.*
iii. *Treatises on Criminal Law Practice.*

i. *General Treatises.*

The Guide of Practitioners.

LE GUIDON DES PRACTICIENS, contenant tout le faict de Practique, comme l'on se doibt conduire en exerceant icelle, &c. 12mo. Paris, 1545.

A book of practice, in 42 chapters, which treat of summonses, &c.; judges and their jurisdiction; attornies, &c.; guardians; real actions, dower, partnerships, fiefs, successions, taxes, servitudes, &c. There are two indices. The name of the author of this work does not appear; but there is an address by Étienne Dolet, wherein he states that the work had been sent to him by a friend.

Dolet was an eminent scholar in the reign of Francis I.; he was born in 1509, and was put to death in 1546, on account of his religion.

Imbert's Institutes.

INSTITUTIONUM FORENSIUM Galliæ penè totius, quæ moribus regitur, communium, libri quatuor: universum Judiciorum et civilium et capitalium ordinem complectentes, JOHANNE IMBERTO, &c. authore. His accessit non exiguum auctarium, cum ex ple-

BOOKS OF PRACTICE, &c.

risque rebus, tum ex regiis constitutionibus, novissimè editis, in proprios quosque locos congestis. 8vo. Utrecht, 1649.

Imbert's Institutes.

A new edition of Imbert's Institutes of the Common Law of France. This work is much praised by Cujas, Du Moulin and Dupin; it was translated into French by the author himself, and first printed in 1548, under the title of "*Paraphrase en langage François des quartres livres des Institutions Forenses; ou autrement Practique Judiciaire, translatée du Latin de J. Imbert.*" This translation has been printed several times.

Jean Imbert, an advocate at Fontenay-le-Comte, and afterwards *lieutenant-criminel* at the same place, was born at La Rochelle, and flourished in the sixteenth century.

The present work is divided into 48 books, which are subdivided into 118 chapters. There is a preface, notes and an index. Some of the most interesting subjects of these institutions are, as to the civil part, the forms of actions, &c.; the *enquêtes par turbes*; the *fins de non recevoir*; the ordering and passing of sentences or judgments, executions, jurisdiction, appeals; and as to the criminal part—those relating to torture, and punishments generally.

Imbert's Enchiridion.

ENCHIRIDION JURIS SCRIPTI GALLIÆ, moribus et consuetudine frequentiore usitati itemque abrogati, authore JOHANNE IMBERTO, &c. 12mo. Lyons, 1556.

A manual of French laws (by Imbert), as existing in the author's time. It is arranged alphabetically, and in the manner of a digest, and has an index. A translation of this work into French, under the title of *Enchiridion, ou Bref Recueil du Droit escript, gardé et observé ou abrogé en France*, with additions by Guénois, was printed at Paris, in 4to. 1603.

Lizet's Practice.

PRATIQUE JUDICIAIRE POUR L'INSTRUCTION ET DECISION DES CAUSES CRIMINELLES ET CIVILES, par Pierre Lizet, Premier Président au Parlement de Paris, ensemble des Annotations notables et singulières de M. L. Charondas le Caron. 8vo. Paris, 1603.

Pierre Lizet, first president in the parliament of Paris, was born in the diocese of Saint-Flour, in Auvergne, about 1482, and died on the 9th June, 1554.

Lange's Practice.

LA NOUVELLE PRATIQUE, CIVILE, CRIMINELLE ET BÉNÉFICIALE, par Lange, Avocat au Parlement. 2 vols. 4to. Paris, 1729.

This work went through a great number of editions.

François Lange, an advocate in the parliament of Paris, was born at Reims in 1610, and died on the 11th November, 1684.

LE PRACTICIEN UNIVERSEL, ou le Droit François et la Pratique de toutes les Jurisdictions du Royaume, par Couchot, et revu par Gui du Rousseau de la Combe. 2 vols. 4to. Paris, 1737. Couchot's Practice.

STYLE UNIVERSEL, par Gauret. 2 vols. 12mo. Paris, 1768. Gauret's Style.

ii. *Treatises on Civil Law Practice, &c.*

ORDO PERANTIQUUS JUDICIORUM CIVILIUM, EORUMQUE SOLEMNIA, auctore C. Breto. 4to. 1604. Lebret's *Ordo perantiquus*, &c.

See *ante*, p. 97.

INSTRUCTION POUR DRESSER LES PROCÉDURES DES PROCÈS CIVILS, par Ricard. 12mo. Paris, 1721. Ricard's *Instruction*.

LES PRINCIPES DE LA JURISPRUDENCE FRANÇOISE, exposé suivant l'ordre des diverses espèces d'Actions qui se poursuivent en Justice. Par M. Prévôt de la Jannès, Conseiller au Présidial d'Orléans, &c. 2 vols. 12mo. Paris, 1770. La Jannès' Institutes.

The Principles of French Jurisprudence in Civil Matters, &c. by Prévôt de la Jannès, a Counseller in the Presidial Court of Orleans. This is a new edition of the work by Boucher d'Argis.

The author was born at Orleans in 1698, and died on the 20th October, 1749. He left several works in manuscript, a list of which will be found in the *Biographie Universelle*, article "Prévost de la Jannès."

The work is divided into two parts, which are subdivided into titles, sections, chapters and paragraphs. There is an *avertissement*, an index of the titles, &c. and another of subjects. Prefixed to the work are three discourses, the first of which treats of the necessity of determining the jurisprudence by settled laws; the second of evidence; the third of statutes real and personal.

PART I. OF THE NATURE OF ACTIONS. Title 1. Of the diversity of persons and things; 2, 3. Of possessory and real actions; 4. Of the action *d'inofficiosité* (in case of disherison); 5. Of the action on account of the *légitime*; 6. Of the testamentary action; 7—11. Of actions in respect of substitutions, mortgages, usufruct, fiefs and fee-farm rents; 12, 13. Of the *franc-alleu*, and of actions in respect of *champart*; 14, 15. Of actions in respect of rents and servitudes.

PART II. OF PERSONAL ACTIONS. Titles 1—6. Of marriage, marriage contracts, dowry, and community of property between husband and wife; 7. Of the *augment* or dower; 8. Of actions arising out of agreements; 8—19. Of actions arising out of donations, sales,

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the *retrait lignager*, hiring and leases, powers of attorney, &c.; partnerships, loans, annuities, deposits, bills of exchange; 20—23. Of actions in respect of aleatory contracts, sureties, obligations arising without agreement, boundaries and divisions of property; 24. Of actions to get back what has been improperly paid; 25. Of actions in respect of carrying on other persons' business without their knowledge, &c.; 26, 27. Of actions in respect of guardianship, and jetsam and contribution; 28. Of actions for damages, &c.; 29. Of exceptions.

Jousse's Administration.

TRAITÉ DE L'ADMINISTRATION DE LA JUSTICE, &c. Par M. Jousse, Conseiller au Présidial d'Orléans. 2 vols. 4to. Paris, 1771.

A Treatise, by Jousse, on the Administration of Justice, which treats generally of every thing appertaining to jurisdiction; and chiefly in respect of the competency, functions, duties, rank, prerogatives and sittings of the officers of justice, particularly those of the presidial courts, bailiwicks, seneschalsies, provostships and other ordinary tribunals, both royal and otherwise. The work treats also of the registrars, notaries, advocates, attorneys, *huissiers* and other persons employed in the courts. At the end of this treatise there is another small one, on arbitrations and compromises, which is divided into eleven sections.

Daniel Jousse, a counsellor in the presidial court, châtelet and bailiwick of Orleans, was born at Orleans on the 10th February, 1704, and died on the 21st August, 1781.

A list of his other works, some of which are noticed in this Catalogue (*ante*, pp. 19, 20), will be found in the *Biographie Universelle*, article "Jousse."

This important work is divided into five parts, which are subdivided into titles, sections, chapters, articles and paragraphs. There is a preface, indices of the titles, and an index of subjects. The first volume contains also a list of the principal collections of edicts, ordinances, declarations, letters-patent, regulations and decisions touching the administration of justice, which have been registered in the parliaments and other sovereign courts of the kingdom. This list is divided into three portions, the last of which contains a list of the Collections of Reports of Cases decided in the different Parliaments, &c. There is also a chronological list of the principal decisions, edicts and other regulations concerning the functions, rights and duties of the officers of the bailiwicks, presidial courts, provostships and seigneurial tribunals, beside those which are in the collections of Chénu, Filleau, Joli and Descorbiac. The subjects treated on in the various parts of the work are as follows:—

PART I. OF JURISDICTION AND ITS OBJECT GENERALLY.—Title 1. Of jurisdiction generally, both voluntary and contentious. The subjects treated on are the Roman and French magistrates; the functions, competency and rights of the judges; delegations of authority and commissions. 2. This title treats of the *cas-royaux*. [These were cases wherein the king was interested, either with respect to

the conservation of his person, dignity or domain, or the maintenance of his authority, the preservation of his rights, and those of his officers and the persons and things that are under his protection; and also respecting the government and interior policy of the kingdom.] This title is divided into eighteen chapters, which point out (among other things) before what courts these cases are to be brought. 3. Of the appointment to judicial offices, and of the qualifications, duties, &c. required in the persons appointed.

Part II. Of the Persons appointed to *instruire* and decide on Causes, their Functions and Duties.—Title 1. Of the competency of judges in detail. This title treats of the diversity of judges in France; the competency of the ordinary judges; the competency of the seigneurial justices, the royal provosts, viscounts, *castellans* and *viguiers* [these four names of judges were synonymous; in some provinces they were called *prévôts*, in others viscounts, in some *castellans*, and in others *viguiers*], bailiffs and seneschals. 2. Of the competency of the judges generally. This title treats of the competency of the judges of first instance, and of the judges of appeal; of *committimus* [these were privileges granted by the king to certain individuals to have their causes tried before particular tribunals], and other privileges; exceptions to judges; the *prises à partie*. 3. Of the duties of the judges generally, and of the judges of appeals in civil and criminal matters. 4. Of the functions, honours, &c. of the judges of the presidial courts, royal bailiwicks and *prévôtés*. 5. Of the duties, obligations and rights of the *seigneurs* who had jurisdiction, as well as those of the *seigneurs apanagistes et engagistes* and their judges. 6. Of the assessors or *gradués*, and those who are called on to decide. 7. Of the functions and duties of the *gens du roi* [under the name of the *gens du roi* were comprised the advocates and attorneys-general in the sovereign courts; the king's advocates and attorneys in the bailiwicks and seneschalsies and other courts; the fiscal advocates and attorneys of the *seigneurial* jurisdictions; the substitutes of the attorneys-general and the king's attorneys].

Part III. Of the *Instruction* and the Decision of Causes, and matters incidental thereto.—Title 1. Of the hearing of the causes, and the judgments pronounced thereon; 2. Of written proceedings; 3. Of the matters connected with the proceedings in causes; 4. Of the several matters which the judges might transact in their own houses, &c.; 5. Of the regulations, &c. made by the judges; 6. Of the admission of the judges and other officers; 7. Of the management and visiting of prisons; 8. Of the fees (*épices et vacations*) of the judges and the *gens du roi*; 9. Of fines.

Part IV. Of the Meetings of the Judges and other Officers in a body, their Deliberations, &c.—Title 1. Of church festivals, court holidays and vacations; 2. Of the assizes; 3. Of the *mercuriales*; 4. Of the *grands-jours*; 5. Of the assemblies, deliberations, ceremonies, processions, harangues, and deputations of the body of the judges and other officers.

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Part V. Of various other Persons employed in the Administration of Justice.—Title 1. Of the various kinds of registrars (*greffiers*), their duties, fees, &c.; 2. Of notaries and *tabellions*, their duties, fees, &c.; 3. Of advocates, their rights, fees, &c.; 4. Of attorneys, their rights, fees, &c.; 5. Of the *huissiers* and serjeants, their rights, fees, &c.

Argou's Institutes.

Institution au Droit François, par M. Argou, Avocat au Parlement. Onzième édition, revue, &c. par M. A. G. Boucher d'Argis, Avocat au Parlement. 2 vols. 12mo. Paris, 1787.

The Institutes of the Laws of France, by Argou, revised by Boucher d'Argis. Prefixed to them is the *Histoire du Droit Français*, by Fleury.

Gabriel Argou, an advocate in the parliament of Paris, was born about the middle of the seventeenth century, and died at the beginning of the eighteenth. The present appears to be his only work.

Antoine-Gaspard Boucher d'Argis, a counsellor in the *Châtelet* of Paris, was born in 1708, and died about 1780.

The institutes are divided into four books, which are subdivided into chapters and sections. The 1st book treats of persons, their different ranks, &c.; the 2nd, of things, including fiefs, prescription, wills, successions or inheritances, primogeniture, &c.; the 3rd, of contracts, deeds, &c.; and the 4th, of securities, actions, &c. There is a copious index.

Pigeau's Practice.

La Procédure Civile du Châtelet de Paris, et de toutes les Jurisdictions du Royaume, par Pigeau. 2 vols. 4to. Paris, 1787.

The Civil Practice of the Châtelet of Paris, and of the other jurisdictions of the kingdom, by Pigeau.

Eustache-Nicolas Pigeau, an advocate in the parliament of Paris, and a professor of law, was born near Senlis, in 1750, and died on the 22nd December, 1818. He composed other works besides the present.

Ravaut's Practice.

Cours raisonné de Pratique Civile, ou la Procédure Civile du Palais, suivi d'un Style de Procédure, par Ravaut. 4to. Paris, 1788.

iii. *Treatises on Criminal Law Practice.*

Ayrault's *Ordre*, &c.

L'Ordre, Formalité et Instruction Judiciaire, dont les Anciens Grecs et Romains ont usé ès accusations publiques, conféré au style et usage de nostre France: par Pierre Ayrault, Lieutenant Criminel au Siége Présidial d'Angers. 4to. Paris, 1588.—Des Procès faicts au Cadaver, aux Cendres, à la

Ayrault's *Ordre*, &c.

MÉMOIRE, AUX BESTES BRUTES, CHOSES INANIMÉES ET AUX CONTUMAX: Livre 4e de L'Ordre, Formalité et Instruction Judiciaire; par Pierre Ayrault, &c. 4to. Angers, 1591.

The order and form of proceedings adopted by the ancient Greeks and Romans, in criminal trials, compared with the style and usages of the courts of France on such occasions; together with the proceedings which took place on inquests on dead bodies, &c. and for the purpose of clearing the memory or fame of deceased persons; and in regard to contumacious persons, brute beasts, &c.; by Ayrault, a *Lieutenant-criminel* in the Presidial Court of Angers.

Pierre Ayrault (in Latin Petrus Ærodius), a very eminent lawyer, was born in 1536, and died in 1601. A most interesting account of the sufferings of this good man, caused by the infamous conduct of the Jesuits, first in the seduction of his son, and afterwards in the forcible detention of him in spite of his father's wishes to the contrary (in both of which transactions the most artful means were made use of), will be found in the *Biographie Universelle*, article "Ayrault." It was on this occasion that this excellent man wrote the treatise on *La Puissance Paternelle;* and it may be added, that the above-mentioned abominable transaction on the part of the Jesuits shortened the old man's days.

The first three books of this work are divided into parts, which are subdivided into paragraphs; and the fourth book is divided into numbered sections or paragraphs. Each of the first three books has an epistle or dedication prefixed to it, and an index of the books and parts; and there is an alphabetical index at the end of the first volume.

Book I.—Parts 1, 2, treat of proceedings generally; 3. That it is sometimes necessary to omit forms, with instances among the Lacedemonians and other nations; 4. Of international law and ambassadors, &c.; 5. Of executions without process, prescriptions, &c.; 6. Of the absolving of criminals, trials of kings, &c.

Book II.—Part 1. Of indifferent or unimportant formalities, public accusations, &c.; 2. Of crimes, public and private; 3. Of the office of a judge; 4. Of the accuser.

Book III.—Part 1. Of the accused, summonses, essoins, &c.; 2. Of proofs or evidence, ecclesiastical censures, &c.; 3. Of the trial [this is very interesting]; 4, 5. Of judgments and their execution.

The fourth book contains a fine moral address by the author to his children. The whole work displays very great learning.

Prévôt's Practice.

DE LA MANIÈRE DE POURSUIVRE LES CRIMES, et des Lois Criminelles de France (par Prévôt, Avocat au Parlement). 2 vols. 4to. Paris, 1739.

Soulatges' Treatise.

TRAITÉ DES CRIMES, divisé en deux Parties, par J. A. Soulatges, &c. 3 vols. 12mo. Toulouse, 1762.

This treatise has references to the practice of the parliament of Toulouse.

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De Vouglans' Institutes.

INSTITUTES AU DROIT CRIMINEL, ou principes généraux sur ces Matières, suivant le Droit Civil, Canonique, et la Jurisprudence du Royaume; avec un TRAITÉ PARTICULIER DES CRIMES. Par Me Pierre-François Muyart de Vouglans, Avocat au Parlement. 4to. Paris, 1757.

The Institutes of Criminal Law, according to the Civil and Canon Law, and the Jurisprudence of France, together with a Treatise on Crimes, by Vouglans, an advocate in the parliament of Paris.

The institutes are divided into eight parts, which are subdivided into chapters and paragraphs. The treatise is divided into eight titles, which are subdivided into chapters. There is a preface, an index of parts, titles and chapters, and an analytical index for the whole work.

THE INSTITUTES.—Part 1. Of crime generally; 2, 3. Of the accuser and accused; 4. Of the judges generally; 5. Of the preliminary proceedings (*instruction*); 6. Of proofs or evidence; 7. Of judgments and appeals; 8. Of the execution of judgments; of punishments, &c.

THE TREATISE ON CRIMES.—Tit. 1. Of crimes against God, as atheism, &c.; 2. Of high-treason, &c. and the punishment thereof; 3. Of other crimes, as adultery, bigamy, fornication, rape, unnatural crimes, &c.; 4. Of murder, manslaughter, suicide, arson and duels; 5. Of robbery, &c.; 6. Of forgery, &c.; 7. Of wrongs and injuries; 8. Of misdemeanors, or infringements of police regulations.

De Vouglans' Criminal Law.

LES LOIX CRIMINELLES DE FRANCE, dans leur ordre naturel, &c. Par M. Muyart de Vouglans, Conseiller au Grand-Conseil. Fol. Paris, 1780.

The Criminal Laws of France, put in their natural order, by Vouglans, a member of the *Grand-Conseil*. This work is divided into two parts, which are subdivided into books, titles, chapters, paragraphs and articles. The titles, chapters and paragraphs have summaries of their respective contents. There is a dedication, a preface (wherein the author details the plan of his work), a preliminary discourse, notes, and an index of subjects.

Part I. OF CRIME AND ITS PUNISHMENT.

Book 1. OF CRIME GENERALLY.—Tit. 1. Of its definition and division; 2. Of the different ways of committing crimes, either personally or by means of others; 3. Of the different causes which produce crime; 4. Of the aggravation and alleviation of crimes; 5. Of the extinguishment of crimes.

Book 2. OF PUNISHMENT GENERALLY, AND OF ITS DIFFERENT KINDS, —Tit. 1. Of the origin and necessity of punishment in general; 2. Of the general rules as to the application and infliction of punishments; 3. Of the different kinds of punishments according to the Roman and French laws; 4. Of the different kinds of punishments inflicted in France.

Book 3. OF THE DIFFERENT KINDS OF CRIMES, AND THEIR PUNISHMENTS.—Tit. 1. Of crimes against religion, as blasphemy, &c.;

De Vouglans' Criminal Law.

2. Of crimes against the state, &c.; 3. Of crimes against society, affecting the persons of individuals, as murder, parricide, poisoning, arson, duels, &c.; 4. Of crimes against society, as affecting the honour of individuals, as fornication, adultery, incest, rape, thefts, unnatural crimes, &c.; 5. Of crimes affecting the honour and property of individuals, as forgery, false swearing, suppositious births, &c. forging marks, false weights, &c.; 6. Of crimes, chiefly affecting property, as robbery, sacrilege, removal of land-marks, usury, bankruptcy, monopolies, concealments of property, &c.; 7. Of crimes against society, as affecting the persons, the fame and the property of individuals, as slander, &c.; 8. Of violations of police regulations, as the non-observance of fast days, &c., courtezans, masqueradings, gambling, smuggling, infringements of regulations with regard to provisions, &c.

Part II. Of the *Instruction* and the Evidence or Proofs in Criminal Cases.

Book 1. Of Criminal Proceedings generally.—Tit. 1. Of the criminal judge generally, his jurisdiction and competency; 2. Of the division of the judges, &c.; 3. Of the accuser generally; 4. Of the accused; 5. Of the acts which constitute the criminal *instruction*; 6. Of the acts which constitute the criminal *instruction*, according to the ordinance of 1670 [this title is very minute]; 7. Of the special *instruction*, for causes within the jurisdiction of the provosts, according to the king's declaration of the year 1731; 8. Of acts of special *instruction*, for the *faux principal*, the *faux incident*, and the comparison of hand-writings, &c.; 9. Of military jurisdiction; 10. Of ecclesiastical jurisdiction in criminal matters.

Book 2. Of Proofs or Evidence in Criminal Cases.—Tit. 1. Of proofs or evidence generally; 2. Of the division of proofs or evidence, according to the laws of France; 3. Of the proof of the *corpus delicti*; 4. Of the evidence of witnesses; 5. Of proof *vocale*, or confession; 6. Of documentary evidence; 7. Of presumptive evidence.

De Vouglans' *Instruction Criminelle.*

Instruction Criminelle, suivant les Loix et Ordonnances du Royaume, &c. Par M. Muyart de Vouglans, Avocat au Parlement, &c. 4to. Paris, 1767.

This work, on the *instruction* of criminal cases, is divided into three parts. The first part contains a commentary on the Ordinance of 1670, which was often called the *Code Criminel*, (see *ante*, p. 20). The whole of the Ordinance is given, and is set forth article by article, for the purpose of the commentary.

The second part is a commentary on the Ordinance of 1737, concerning *le faux principal et faux incident, &c.*, which is treated in the same manner as the other ordinance.

The third part treats of ecclesiastical jurisdiction in criminal cases, and is divided into five titles, which are subdivided into chapters. Titles 1, 2,

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De Vouglans' *Instruction Criminelle.*

treat of the competency of ecclesiastical judges in criminal matters; 3. Of the preliminary criminal proceedings against the clergy; 4, 5. Of ecclesiastical judgments in criminal cases and their execution, and of appeals from them.—An index of titles and chapters and a general index.

This work is a continuation of the author's Institutes of the Criminal Law.

Muyart de Vouglans, an advocate in the Parliament of Paris, was born in 1713, and died in 1791. See, as to his character, the *Profession d'Avocat*, vol. ii. p. 357.

De la Combe's Treatise.

TRAITÉ DES MATIÈRES CRIMINELLES, par Gui du Rousseau de la Combe. 4to. Paris, 1769.

This work is divided into four parts; the 1st treats of crimes and penalties generally; the 2nd, of the competency of the judges; the 3rd, of proceedings in criminal cases; and the 4th contains the laws and decisions of the courts in criminal matters.

Jousse's Criminal Law.

TRAITÉ DE LA JUSTICE CRIMINELLE DE FRANCE, où l'on examine tout ce qui concerne les Crimes et les Peines en général & en particulier, &c. Par M. Jousse, Conseiller au Présidial d'Orléans. 4 vols. 4to. Paris, 1771.

A treatise on the Criminal Laws of France, by Jousse. The work is divided into four parts, which are subdivided into books, titles, chapters and paragraphs. There is a preface, divided into three parts, which treats of the origin and necessity of punishments, and of criminal proceedings; it also contains a list of French and other authors on criminal law, and a plan of the present work. The last volume has an index of subjects.

Vol. I. Part I. OF CRIMES AND PUNISHMENTS GENERALLY.

Part II. OF JUDGES, THEIR COMPETENCY, &c.

Part III. Book 1. OF THE *Ordre Judiciaire* IN CRIMINAL MATTERS GENERALLY.—Tit. 1. Of prosecutions for crimes; 2. Of the pleas or exceptions, and the defence of the accused; 3. Of proofs or evidence.

Vol. II. Part III. Book 2. OF CRIMINAL PROCESS—Tit. 1. Of the inquiry; 2. Of *ex officio* inquiries; 3. Of the *corpus delicti*, and the manner of substantiating it; 4. Of plaints, accusations, and impeachments or charges; 5. Of the *procès-verbaux* of the judges who go to visit the accused person's house, &c., of affixing the seals, and searching; 6. Of the property found in the accused person's house, &c.; 7—16. Of the witnesses, monitories, comparison of handwritings, arrest and imprisonment, interrogatories, appeals, decrees for alimony, &c.; 17—24. Of the reading of their depositions to the witnesses, and of exceptions to them, &c.; of the pardon and commutation of punishments; of default and contumacy, and torture; of the changing of civil into criminal process, &c.; of the *conclusions* of the king's attorney-general, &c.; 25. Of the sentence, &c.; 26. Of process concerning the *faux principal et incident*; 27—34. Of process against the deaf and dumb, and those that

refuse to answer—against those that do not understand French—against corporations—in respect of a deceased person—against courtezans, &c.; for correction of children, &c.; for delinquencies committed against judges, or in their presence; 35—43. Of arrest of judgment, appeals, &c.; of justifications, and the re-establishing of the reputation of a convicted person, &c.

Jousse's Criminal Law.

Vol. III. Part III. Book 3. Of the mode of carrying on Criminal Trials, &c. This is an important part of the work.

Vols. III.—IV. Part IV. Of Crimes in detail. At the end of this part are inserted forms of practical proceedings in criminal cases, 421 in number.

Code Pénal (par Clément-François de L'Averdy, Conseiller au Parlement). 12mo. Paris, 1777.

De l'Averdy's *Code Pénal.*

See among the treatises in this part of the Catalogue, the headings "Administration of Justice," "Common Law," "Criminal Law," "Ecclesiastical Law."

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7. COLLECTED WORKS OF AUTHORS.

Dom. Petri Rebuffi, Montepessulani Juris utriusque Doctoris ac Comitis Opera. 5 vols. fol. Lyons, 1554—64.

Rebuffi's Works.

The works of Pierre Rebuffi, an eminent French lawyer. He was born near Montpellier, in 1487, or, according to Moréri, in 1500; became a priest in 1547, and died on the 2nd November, 1557.

The first three volumes of this collection contain—(1) Commentaries (*tractatus*) on some of the ordinances of the French kings.

The fourth volume contains—(2) *Praxis Beneficiorum*, in 3 parts; the first of which treats of presentations, collations, &c.; the second of dispensations, &c.; and the third of resignations, papal bulls, &c.

The fifth volume contains—(3) Nine tracts; the first of which treats of tithes; the second of the alienation of church property; the third of the *congrua portio;* the fourth of nominations; the fifth of *pacifici possessores;* the sixth is a *Repetitio* on the 47th title of the 7th Book of Justinian's Code, *De Sententiis, quæ pro eo, quod interest, proferuntur;* the seventh treats of fiefs; the eighth of servitudes; and the ninth of exceptions.

Moréri mentions—(4, 5)—Two other treatises by Rebuffi, the first of which is on the papal bull *In cænâ Domini;* the other (entitled *Concordata*, &c.) is a commentary on the *Concordat* between François I. and Pope Leo X. The first of these two treatises is appended to the edition of Rebuffi's *Praxis Beneficiorum*, fol. Paris, 1664; and the other is also to be found in the same edition of the *Praxis.*

Rebuffi also wrote (6) a commentary on the last title but one of the 50th book of Justinian's Digest, *De Verborum Significatione.*

COLLECTED WORKS OF AUTHORS.

Tiraqueau's works.

OPERA OMNIA DOMINI ANDREÆ TIRAQUELLI Regii in Curiâ Parisiensi senatoris dignissimi quæ hactenus extant, &c. 7 vols. fol. Frankfort, 1597.

A collection of the works of André Tiraqueau (in Latin Tiraquellus), a counsellor in the parliament of Paris.

Tiraqueau, an eminent lawyer and a man of vast learning, was born at Fontenai-le-Comte about 1480 (or, as some authors say, in 1451), and died in 1558.

Curious anecdotes are inserted in the *Biographie Universelle* and Moréri, article "Tiraqueau," concerning the number of his children.

The titles of Tiraqueau's works are as follows:—1. DE NOBILITATE ET DE JURE PRIMOGENITORUM. 2. DE LEGIBUS CONNUBIALIBUS ET JURE MARITALI. 3. DE RETRACTU MUNICIPALI ET CONVENTIONALI, COMMENTARII DUO. 4. CESSANTE CAUSÂ, CESSAT EFFECTUS. 5. "LE MORT SAISIT LE VIF." 6. DE JURE CONSTITUTI POSSESSORII. 7. COMMENTARIUM IN *Leg. Boves, § de verborum significatione.* 8. DE PRIVILEGIIS PIÆ CAVSÆ. 9. DE PRÆSCRIPTIONIBUS. 10. DE JUDICIO IN REBUS EXIGUIS FERENDO. 11. COMMENTARIUM IN *Leg. Inter alios*, Cod. *Inter alios acta*, &c. 12. COMMENTARIUM IN *Leg. Si unquam*, Cod. *de revocandis Donationibus.* 13. DE PŒNIS TEMPERANDIS AUT REMITTENDIS.

Another work is ascribed to Tiraqueau in the *Biographie Universelle*, namely, *Semestria in Geniales Dies Alexandri ab Alexandro*, printed at Leyden, in 2 vols. fol. 1673, with the notes of Colerus and Dionysius Gothofredus.

The first edition of Tiraqueau's works appears to have been published at Paris, by his son, in 1574, in 5 vols. fol.

Each treatise in this collection has a dedication, an address to the reader, &c. and two indices. The treatises are distributed in the volumes as follows:—

Vol. I.—1. The treatise on nobility and the right of primogeniture is divided into two parts; the first treats of nobility, and the other of primogeniture. The former is divided into 37 chapters, which treat chiefly of the origin of nobility, &c.; whether knowledge or virtue ennobles; how nobility is acquired and lost; of the privileges of the nobility; whether certain professions or trades derogate from nobility. The second part has a copious preface, and is divided into 98 questions, to which are added their answers or solutions; they are very miscellaneous.

Vol. II.—2. The second treatise is a Commentary on the 18th title of the Customary Laws of Poitou, concerning the power and authority of the husband. It is divided into nine glosses, the first of which is subdivided into 16 parts, each of which is adapted to what Tiraqueau calls a *Lex Connubialis*, which consists of an adage comprised in a distich in Latin rhyme: these *Leges* are 16 in number. The other eight glosses are on particular portions of the same title of the customary laws.

Vol. III.—3. The treatise on the *Retrait lignager* (the right of repurchase or redemption of immoveable property that is sold), is

Tiraqueau's works.

divided into two titles, the first of which comprises the *Retrait lignager*, and the other the *Retrait conventionnel*. These two titles correspond with the 10th and 11th titles of the Customary Laws of Poitou headed respectively *De Retrait lignager* and *De Retrait conventionnel*, and are a commentary on them.

Vol. IV.—4. The treatise intitled *Cessante Causâ, &c.* has 40 *limitationes* to the rule, which are divided into sections or paragraphs.

5. The treatise intitled *Le mort saisit le vif*, is a commentary on the 6th title or rubric of the customary laws of Poitou, which usage or law was not however confined to Poitou. Papon states that this usage was general in France, both in the *pays coutumiers* and in the *pays de droit écrit*. The commentary is divided into seven parts, which are subdivided into *declarationes*.

6. The treatise intitled *De jure constituti possessorii* is divided into three parts, the second of which is subdivided into *ampliationes*, and the third into *limitationes*.

7. The commentary on the law *Boves*, tit. 16, book 50, of the Digest of Justinian, is divided into 33 *limitationes*.

Vol. V.—8. The treatise intitled *De privilegiis piæ causæ*, relates to legacies left to pious uses, and is a comment on the 10th and 11th chapters of tit. 26, book 3, of the Decretals.

9. The treatise on prescription is a commentary on the 12th title or rubric of the customary laws of Poitou, and consists of 12 glosses.

10, 11. The treatise intitled *De judicio in rebus exiguis ferendo*, and the commentary on the law *Inter alios res gestas, &c.* are very short.

Vol. VI.—12. The commentary on the law *Si unquam*, tit. 56, book 8, of the Code of Justinian, is very copious.

Vol. VII.—13. The treatise on the remitting or moderating of punishments is divided into 64 *causæ;* it is very curious.

G. le Maître's works.

ŒUVRES DE FEU MESSIRE GILLES LE MAISTRE, chevalier, et premier Président en la Cour de Parlement de Paris, &c. 4to. Paris, 1653.

A new edition of Gilles le Maistre's works, by Bernard, an advocate in the parliament of Paris.

Gilles le Maistre, first president in the parliament of Paris, was born at Montlhéri about 1499, and died on the 5th December, 1562.

This collection is divided into five books, the first of which treats of *Criées et Saisies réelles* (sales of real property taken under distress or by adjudication); the second, of mortmain and *francs-fiefs;* the third, of the king's *régale* or prerogative; the fourth, of fiefs, homage and vassals, &c.; and the fifth, of *appellations comme d'abus* (appeals from the ecclesiastical to the lay tribunals). The first of these treatises is a commentary on the edict of Henri II. dated the 2nd or 3rd September, 1551.

COLLECTED WORKS OF AUTHORS.

Du Moulin's works.

CAROLI MOLINÆI, Franciæ et Germaniæ celeberrimi Jurisconsulti, et in supremo Parisiorum Senatu antiqui Advocati, OMNIA QUÆ EXTANT OPERA, &c. 5 vols. fol. Paris, 1681.

This is the best edition of Du Moulin's works.

Charles Du Moulin, or Du Molin as he wrote the name himself, an eminent lawyer both in France and Germany, and an advocate in the parliament of Paris, was born at Paris in 1500, and died in 1566. He was called the Papinian of France.

The first and second volumes of this edition comprise his works on the laws of France; the third, his commentaries on parts of the Roman laws; and the fourth and fifth, his works on ecclesiastical matters. There are several indices and dedications in the volumes; and the first volume has a preface, and two lives of Du Moulin, one in Latin and the other in French. All his works are in Latin, except those which are here noted as being in French.

Vol. I.—WORKS ON FRENCH LAW.

1. COMMENTARIUS IN PRIORES TITULOS ANTIQUÆ CONSUETUDINIS PARISIENSIS,—Commentaries on the first Titles of the ancient Customary Laws of Paris. They are followed by the commentaries on the other titles of the same customary laws.

Vol. II.—WORKS ON FRENCH LAW—continued.

2. TRACTATUS CONTRACTUUM ET USURARUM, &c.—a Treatise on Contracts, Usury and Annuities,—divided into 100 *quæstiones*, with a summary or abridgment of the same, in French, and divided into 24 *questions*.
3. STYLUS ANTIQUUS CURIÆ PARLIAMENTI, &c.
   Another edition of this Stylus has been already noticed at pp. 38, 39.
4. ORATIO DE CONCORDIÂ ET UNIONE CONSUETUDINUM FRANCIÆ,—an Oration on the Concordance, &c. of the Customary Laws of France,—followed by notes or short comments on particular portions of a great number of the *coutumes* of France; the passages selected concern generally fiefs, *censives* and seigneurial rights, personal actions and mortgages (*hypothèques*), *retraits lignagers*, dower and successions.
5. COMMENTAIRES SUR L'ORDONNANCE DE 1539,—Commentaries on the Ordinance of 1539, relating to the administration of justice; followed by an edict dated in 1546, with a commentary on it.
6. CONSILIA ET RESPONSA JURIS ANALYTICA,—sixty *Consilia*, some of which are on very important questions, not only in French but German law, &c.; two *Consilia* for the Duke of Villahermosa; four others, two of which relate to the Council of Trent and the Jesuits.
7. TRAITÉ DE L'ORIGINE, PROGREZ, ET EXCELLENCE DU ROYAUME ET MONARCHIE DES FRANÇOIS, &c.—a Treatise on the Origin, &c. of the French Kingdom and Monarchy, in French, followed by a translation into Latin.

COLLECTED WORKS OF AUTHORS.

8. Notæ in Comment. B. Chassanæi, super Consuetud. Burgundiæ,—notes on Chassanæus's Comments on the *Coutume* of Burgundy.

Du Moulin's works.

Vol. III.—Works on the Roman Law.

1. Tracts, commentaries, &c., the chief of which is a commentary on the 16th title of the 50th book of the Digest, *De verborum significationibus.*
2. A commentary on the first six books of Justinian's Code.
3. Notes on Decius's *Consilia*, and on his commentaries on the Digest and Code; and notes on Alexander's *Consilia.*
4. Tractatus analyticus de Dignitatibus, Magistratibus et Civibus Romanis, &c.—a Treatise on the Roman Dignities, Magistrates and Citizens.

Vol. IV.—Works on Canon or Ecclesiastical Law.

1. Notes on the body of the canon law.
2. A commentary on the edict of Henri II. against the *Parvæ Datæ* and the abuses of the Romish court; this is followed by a translation (with augmentations) of the same work into French. This work is probably Du Moulin's greatest performance. The rest of this volume is occupied by a defence of Du Moulin's last work, by Remundus Rufus; another treatise by Franciscus Hotomannus (François Hotoman) and a very large treatise *De Beneficio*, by Joannes de Selvâ, which is divided into three parts.

Vol. V.—Works on Canon or Ecclesiastical Law—continued.

3. An oration delivered in the university of Tubingen.
4. A treatise in French against a book intitled *La Deffense Civile et Militaire des Innocens.*
5. An opinion (*consultation*) in French, for the nobility of Picardy.
6. Commentarius analyticus in Regulas Cancellariæ, &c.—an Analytical Commentary on the Rules of the Romish Chancery, as received in France; this is followed by Louet's notes on the same.
7. Notes on Dinus and Philippus Decius's Commentaries on the Canon Law.
8. *Conseil sur le fait du Concile de Trente,*—a *Conseil* touching the Council of Trent; followed by a Latin translation.
9. A *Consilium* concerning the Jesuits.
10. Collatio et Unio Quatuor Evangelistarum,—a Concordance and Union of the Four Evangelists,— in 125 parts; followed by notes on 123 of the parts.
11. *Copie des articles presentez par Maistre Charles Du Moulin, contre les ministres de la religion prétendue reformée, &c.*—a Copy of the Articles presented by Du Moulin against the Ministers of the reformed Religion.

The Chancellor L'Hôpital's works.

Œuvres completes de Michel L'Hospital, Chancelier de France, &c. Par P. J. S. Dufey, de l'Yonne. 3 vols. 8vo.

COLLECTED WORKS OF AUTHORS.

Paris, 1824-5.—Œuvres inédites du même. Par P. J. S. Dufey, &c. 2 vols. 8vo. Paris, 1825-6.

The Chancellor L'Hôpital's works.

A complete collection of L'Hôpital's works.

Michel de L'Hôpital, one of the most eminent of the chancellors of France, was born in Auvergne in 1505 or 1506, and died at Vignay on the 13th March, 1573.

His works consist of—1. Speeches on various occasions. 2. Mémoires, or Discourses. 3. Mémoires d'État. 4. Letters. 5. Six Books of Epistolæ, in Latin verse, with a few others called Tumuli. 6. A Treatise on the Reformation of the Law. 7. Mémoires d'État, arranged by M. de Refuge. These two latter works are in the fourth and fifth volumes. The work on the reformation of the law is divided into seven parts, the first of which treats of the dignity, power and authority of the law, and of the happiness which it brings to a state; the third declares that injustice was the cause of the ruin of the Roman empire; the fourth treats of the ancient dignity and majesty of the law in France, to which recourse was had from all parts of Christendom; the sixth, of the remedies to be applied in the reformation of the law; the seventh is a summary of the results of such reform. The first volume contains an historical account of L'Hôpital and his times, under the title of *Essai sur L'Hôpital;* the second volume contains his will; and the third, sixteen fine portraits, &c. of L'Hôpital, Henri II., Diana of Poitiers, &c., L'Hôpital's house and yew tree, &c. with descriptions; and two specimens of his hand-writing. The fifth volume has an essay on the legislation and judicial institutions of France in the sixteenth century.

Grimaudet's works.

Les Œuvres de François Grimaudet, &c. 8vo. Paris, 1623.

A collection of Grimaudet's works, which consist of various treatises, the titles of which are as follows:—1. Du Droit des Dixmes—of the Rights of Tithes; 2. Des Usures—of Usury; 3. Du Retrait Lignager—of the Right of Re-purchase, &c.; 4. Des Causes qui excusent le Dol—of cases in which Fraud is exercised; 5. Des Monnaies—of Money, &c. See among the treatises in this part of the Catalogue, the heading "*Retrait Lignager.*"

François Grimaudet, king's advocate at Angers, was born in the sixteenth century, and died on the 29th August, 1580.

Bacquet's works.

Les Œuvres de Jean Bacquet, augmentées par Claude de Ferrière et par Claude-Joseph de Ferrière, &c. 2 vols. fol. Lyons, 1744.

This is the best edition of Bacquet's works.

Jean Bacquet, king's advocate in the *Chambre du Trésor* at Paris, was born in the sixteenth century, and died about 1597.

His works consist of various treatises, the titles of which are as follows:—1. Des Droits de Justice—of the Rights of Justice; 2. Des Trans-

PORTS DE RENTE—of Assignments of Rent; 3. DE LA CHAMBRE DU TRÉSOR—of the Chamber of the Treasury; 4. DES DROITS ET DÉPENDANCES DU DOMAINE—of the Rights, &c. of the Domain; 5. DU DROIT D'AUBAINE—of the Rights of the *Aubaine;* 6. DU DROIT DE BÂTARDISE—of the Rights of Bastardy; 7. DU DROIT DES FRANCS-FIEFS—of the Rights of *Francs-fiefs;* 8. DU DROIT DE DESHÉRENCE—of the Rights of Disherison; 9. DES NOUVEAUX ACQUETS—of acquired Property (so called); 10. DES ENNOBLISSEMENS ET AMORTISSEMENS—of Creations of Nobility, &c.; 11. DE L'ÉTABLISSEMENT DE LA CHAMBRE DU TRÉSOR—of the establishment of the Chamber of the Treasury.

Bacquet's works.

LES ŒUVRES de Maistre GUY COQUILLE sieur de ROMENAY, contenant plusieurs Traitez touchant les Libertez de l'Église Gallicane, l'Histoire de France et le Droit François. Entre lesquels plusieurs n'ont point encore été imprimez, et les autres ont été exactement corrigez, &c. 2 vols. fol. Bordeaux, 1703.

Coquille's works.

A new edition of Coquille's works.

Guy Coquille, one of the most eminent of the old French lawyers, was born in the Nivernois in 1523: he practised at one time as an advocate at Paris, and finally at Nevers, and died in 1603.

The first volume of this edition of Coquille's works contains a list of all the tracts or works composed by him, the number of which is 46; of these 24 only are printed in these two volumes. Many of the others are in Latin, and they all relate to law except four, which are poetry.

The titles of the chief tracts or works, which are printed in this collection, are as follows:—1. MÉMOIRES POUR LA RÉFORMATION DE L'ÉTAT ECCLÉSIASTIQUE—memoirs for the Reform of the Church. 2. TRAITÉS DES LIBERTÉS DE L'ÉGISE GALLICANE—two treatises on the Liberties of the Gallican Church. 3. DU CONCILE DE TRENTE—on the Council of Trent. 4. DES BÉNÉFICES DE L'ÉGLISE—on Church Livings. 5. HISTOIRE DU PAYS DE NIVERNOIS—a history of the Province of Nivernois. 6. TRAITÉ DES PAIRS DE FRANCE—a treatise on the Peers of France. 7. LES ORDONNANCES DE HENRI III.—the Ordinances of Henri III. dated at Paris in 1579, with Coquille's commentaries. 8. COMMENTAIRE SUR LES COUTUMES DU PAYS ET COMTÉ DE NIVERNOIS—a Commentary on the Customary Laws of Nivernois, with the text of the Laws. 9. INSTITUTION AU DROIT DES FRANÇOIS—the Institutes of the French Laws. The subjects treated on in this tract are:—Royalty, justice, copyholds, servitudes, serfs, communities of property and associations, &c., the rights of husband and wife, dowry, personal property, donations, guardianship, the right of redemption or repurchase, wills, inheritances, prescription, executions or sequestrations, &c.; contracts, bastards, and *aubains.* 10. QUESTIONS, RÉPONSES, ET MÉDITATIONS SUR LES ARTICLES DES COUTUMES—questions, &c. chiefly on articles of the *Coutumes* of the Nivernois: they are 295 in number.—There are several indices to the Tracts and *Coutumes,* a life of Coquille by Joly, a biographical account of Coquille and his ancestors, and a dedication.

COLLECTED WORKS OF AUTHORS.

Chopin's works.

LES ŒUVRES DE MESSIRE RENÉ CHOPPIN, divisées en cinq tomes; le 1er contient les COMMENTAIRES SUR LA COUTUME D'ANJOU; le 2e le TRAITÉ DU DOMAINE DE LA COUTUME DE FRANCE; le 3e le COMMENTAIRE SUR LA COUTUME DE PARIS; et le TRAITÉ DES PRIVILEGES DES RUSTIQUES PERSONNES vivant aux Champs; le 4e le TRAITÉ DE LA POLICE ECCLÉSIASTIQUE; et le 5e le TRAITÉ DES RELIGIEUX ET MONASTÈRES, avec la notice des archévêchés et évêchés de tout le monde, traduit du Latin par Jean Tournet, &c. 5 vols. fol. Paris, 1663.

A translation into French (by Tournet) of Chopin's works, which consist of—1. A Commentary on the Customary Laws of Anjou; 2. A Treatise on the domain of the Crown of France [see among the Treatises in this part of the Catalogue, the heading "Domains"]. 3. A Commentary on the *Coutume* of Paris, and a Treatise on the privileges of Rustic Persons, &c. [see among the Treatises the heading "Privileges"]. 4. A Treatise on Ecclesiastical Polity. 5. A Treatise on Persons who have taken the vows, and on Monasteries, &c. [see for these two articles among the Treatises, the heading "Ecclesiastical Law"].

These works were composed originally in Latin. The work on Domains is exceedingly valuable. Some other minor works by Chopin are mentioned in the *Biographie Universelle*, article "Chopin."

René Chopin (or Choppin, as the name is sometimes spelt), was an advocate in the parliament of Paris; he was born near La Flèche, in 1537, and died at Paris on the 2nd February, 1606.

Pasquier's works.

LES ŒUVRES D'ESTIENNE PASQUIER, contenant ses Recherches de la France, &c. 2 vols. fol. Amsterdam, 1723.

The works of Pasquier, the chief of which are the *Recherches de la France*, and his Letters.

Étienne Pasquier, an eminent advocate and antiquarian, was born at Paris in 1529, and died in that city in 1615. His work entitled *Recherches de la France* (the Antiquities of France), is divided into nine books, which are subdivided into chapters.

Book 1 treats of the origin of the French nation. 2. Of the parliament of Paris; the states-general (*États-Généraux*); the officers of state, &c. in different ages; taxes; the Salic law; primogeniture; waters and forests. 3. Of ecclesiastical matters, and the usurpations of the church of Rome. 4. Of ordeals; the condition of persons; and much curious miscellaneous matter. 5. Treats of Clovis, &c. the Queens Frédegonde and Brunehaud, &c. 6. Contains many anecdotes of the early kings of France and other individuals. 7. Treats of French poetry. 8. Of the origin of many French words—this is very curious. 9. Of the university of Paris, and the study of the law.

Pasquier's celebrated *Plaidoyer* for the University of Paris against the

COLLECTED WORKS OF AUTHORS.

Pasquier's works.

Jesuits, is not in this collection; his *plaidoyer* for the Duke of Lorraine is in the first volume. His letters are divided into 22 books; the 3rd, 9th, 12th, 13th, 14th, 19th and 21st books contain many letters on legal and political subjects. The 12th book also contains one of his *plaidoyers*, and the story of Pope Joan. His other works consist of Latin and French poetry and some small tracts. The first volume of this edition has an introduction, and a life of Pasquier; the second contains the letters of his son Nicolas, which are divided into ten books; and each volume has an index.

Charondas le Caron's works.

LES ŒUVRES DE LOUIS CHARONDAS LE CARON, &c. 2 vols. fol. Paris, 1637.

The works of Charondas le Caron. The titles of the works comprised in the first volume are as follows:—1. RESPONSES ET DÉCISIONS DU DROIT FRANÇOIS, *confirmées par arrests des cours souveraines de le royaume, et autres: comme aussi des Conseils d'Etat et Privé du Roi, et Grand Conseil; enrichies des singulières observations du Droict Romain*, &c.—questions and answers on French law. This work is divided into 13 books, and the answers are numbered. 2. RESOLUTIONS DE PLUSIEURS NOTABLES, CÉLÈBRES ET ILLUSTRES QUESTIONS *de Droict, tant Romain que François*, &c.—the solution of various questions, both of the Roman and French law. This work is divided into six parts, with titles numbered. 3. MÉMORABLES OBSERVATIONS DU DROICT FRANÇOIS, &c.—Memorable remarks on the French laws, &c. This work is arranged alphabetically, in the manner of a digest; and has, at the end, a collection of royal edicts, and some decisions of the Court of Aids. The volume has a dedication, a notice to the reader, an introduction and an index.

The second volume contains—4. PANDECTES OU DIGESTE DU DROICT FRANÇOIS—Pandects or Digest of the French Law. This work is divided into four books, which are subdivided into chapters: there are two indices.

Book 1 treats of legislation; of the laws of France; of jurisprudence, equity, law, canon law; of benefices; of the chancery; of ecclesiastical jurisdiction; of the *régale;* of the *droit d'aubaine;* of edicts, &c.; of war, peace and treaties; of magistrates; of customary laws.

Book 2 treats of private law, the rights of persons, marriage, children and guardians; of things corporeal and incorporeal; of servitudes, rents, feudal rights, donations, occupation and prescription, the right of redemption or re-purchase; of bonds, sales, agreements, powers of attorney, *restitutions en entier*, &c.

Book 3 treats of wills, substitutions, legacies, inheritances, the bringing into hotchpot, the Falcidian and Trebellianic portions, and the *légitime*.

Book 4 treats of actions generally, and of actions real, personal and mixed; of proofs or evidence, exceptions, judgments, executions, appeals; of criminal trials.

Book 5. A commentary on the *Coutume* of Paris, with the text.

Louis le Caron (who assumed the name of Charondas, an ancient lawgiver of Sicily,) was a poet as well as a lawyer; he was born at Paris in 1536 and died in 1617.

COLLECTED WORKS OF AUTHORS.

Minor works of Loisel, Du Mesnil and P. Pithou.

DIVERSES OPUSCULES tirez des Mémoires de Me ANTOINE LOISEL, Advocat en Parlement. Auxquels sont joints quelques Ouvrages de M. M. BAPTISTE DU MESNIL, Advocat-général du Roy; de Me PIERRE PITHOU, Sieur de Savoye, Advocat en la Cour, et de plusieurs autres célèbres Personnages de leurs temps. Le tout recueilly et mis nouvellement en lumière, par Me CLAUDE JOLY, cy-devant Advocat en Parlement, et à present Chanoine en l'Église de Paris, petit-fils de Me Antoine Loisel. 4to. Paris, 1656.

Some minor works of Antoine Loisel, Du Mesnil, Pierre Pithou and others, edited by Joly, Loisel's grandson.

The minor works of Loisel, which are comprised in this volume, are headed as follows:—1. LIVRE D'OBSERVATIONS ÉCCLÉSIASTIQUES—a book of remarks on ecclesiastical matters. 2. LIVRE D'OBSERVATIONS MÉLÉES, ET PARTICULIÈREMENT DE QUELQUES DROITS DU ROI ET DE LA COURONNE—a book of mixed remarks, but particularly relating to the domains of the crown. 3. LIVRE D'OBSERVATIONS DU DROIT CIVIL, ROMAIN ET FRANÇOIS—a book of remarks on the Roman and French civil law. 4. LES VIES DE RUFUS, JURISCONSULTE STOÏCIEN, DE DU MESNIL, AVOCAT DU ROI, ET DE PITHOU, AVOCAT EN PARLEMENT—the lives of Rufus, Du Mesnil and P. Pithou. 5. PASQUIER, OU DIALOGUE DES AVOCATS DU PARLEMENT DE PARIS—Pasquier, or the Dialogue of the advocates of the parliament of Paris. The speakers in this dialogue (all advocates in the parliament of Paris) are, Étienne Pasquier, a counsellor and king's advocate in the *chambre des comptes*, and an *ancien* advocate in the parliament of Paris; François Pithou; Antoine Loisel, the author of the Dialogue; his son Antoine; his second son, Gui Loisel, a *conseiller-clerc* in the parliament of Paris, &c.; his nephew, the Sieur d'Hibouviller; Théodore, eldest son of Étienne Pasquier; and Nicolas, his youngest son, and a Master of the Requests.

Besides the above treatises, &c. Loisel composed—1. The *Institutes Coutumières*, &c. which will be found among the treatises in this part of the Catalogue; 2. *La Guyenne, qui sont huit remontrances faites en la Chambre de Justice de Guyenne, sur le subjet des édits de pacification* (noticed *ante*, p. 100), and some other works not relating to law.

Antoine Loisel was born at Beauvais in 1536, and died in 1617.

The minor works of Du Mesnil, which are contained in this volume, consist of a few *plaidoyers*, &c. The *plaidoyers* are noticed *ante*, p. 95.

Jean-Baptiste Du Mesnil, king's advocate in the parliament of Paris, was born on the 29th September, 1517, and died on the 2nd July, 1569.

The chief of P. Pithou's tracts comprised in this volume are, six books of *Regulæ*, touching the Roman and canon laws, and some *plaidoyers*, &c. There is also an extract from a *plaidoyer* by his brother François.

Pierre Pithou, an eminent antiquarian and an advocate in the parliament of Paris, was born at Troyes on the 1st November, 1539; he studied the law at Bourges, was one of the compilers of the celebrated *Satire Ménippée*,

and died on the 1st September, 1596. His works were published by Charles Labbé, under the title of *Opera P. Pithæi sacra, juridica, historica, miscellanea*, &c. 4to. Paris, 1609. His chief work on French law is his maxims touching the liberties of the Gallican Church.—See among the treatises in this part of the Catalogue, the heading "Liberties of the Gallican Church." COLLECTED WORKS OF AUTHORS. Minor works of Loisel, Du Mesnil and P. Pithou.

François Pithou, brother of Pierre Pithou, and an advocate in the parliament of Paris, was born at Troyes in 1548, and died in January or February, 1621. He wrote a commentary on the customary laws of Paris, a glossary to the Salic laws, a treatise entitled *De la grandeur, &c. des Rois et du Royaume de France*, and (in conjunction with his brother) commentaries on the Digest and Code: he also (with his brother) brought out an edition of the *Corpus Juris Canonici*.

At the end of the Dialogue there is an ordinance of King Philippe de Valois, concerning the parliament of Paris; a list of the advocates in the same parliament in 1524, and another for the year 1599; an alphabetical list of advocates in Loisel's time, with biographical accounts of them. The volume has a dedication, a preface, and an index of contents.

LES ŒUVRES DE MESSIRE JULIEN PELEUS, Avocat en Parlement. Fol. Paris, 1631. Peleus's works.

A collection of the works of Peleus, an advocate in the parliament of Paris, and royal historiographer.

Julien Peleus was born at Angers about the middle of the sixteenth century, and died after the year 1622.

The titles of his works are as follows:—1. LES ACTIONS FORENSES SINGULIÈRES ET REMARQUABLES, *contenant la substance des Plaidoyers et Moyens des parties, avec les Arrêts des Cours Souveraines intervenus en chaque Cause* —some remarkable Cases at Law, with the Decisions of the Sovereign Courts thereon. 2. 160 QUESTIONS ILLUSTRES *disputées et plaidées de part et d'autre, avec les Arrêts du Parlement de Paris*—160 notable Cases, with the Decisions of the Parliament of Paris thereon. Besides these works he wrote—3. COMMENTARIUS, &c. IN REGULAS CANCELLARIÆ ROMANÆ (8vo. Paris, 1615)—A Commentary on the Rules of the Romish Chancery. 4. DE MATRIMONII DISSOLUTIONE *ob defectum testium non apparentium* (8vo. Paris, 1600)—on the Dissolution of Marriage, &c. Peleus also wrote several histories and some poetry.

LES ŒUVRES DE JACQUES LESCHASSIER, contenant plusieurs excellens Traités, tant du Droit public des Romains, que de celui des François; ensemble quelques Mémoires servant à l'Antiquité de l'Église et à l'Illustration de l'Histoire de France. Augmentées d'un Traité des Obligations, Hypothèques et Adjudication par Décret. 4to. Paris, 1652. Leschassier's works.

This is the best edition of Leschassier's works, consisting of various treatises on the public Law of the Romans and of the French, with some

COLLECTED WORKS OF AUTHORS.

Mémoires touching the Antiquities of the Church, and in illustration of the History of France; and a Treatise on Obligations, Mortgages and judicial Sales, &c.

Leschassier's works.

Jacques Leschassier, an advocate in the parliament of Paris, was born at Paris in 1550, and died in 1625.

Servin's *Plaidoyers.*

ACTIONS NOTABLES ET PLAIDOYEZ DE Mre LOUYS SERVIN, Conseiller au Roy en ses Conseils d'Estat et Privé, et son Advocat Général en sa Cour de Parlement, non encore imprimez. Avec les Arrests donnez sur iceux. 8vo. Paris, 1620.

The *Plaidoyers*, &c. of Servin, an eminent lawyer and advocate-general in the parliament of Paris; with an harangue to Louis XIII. on his being declared of age, &c.

Louis Servin was born about 1560, and died in 1626. He wrote also a treatise on the liberties of the Gallican Church, &c. intitled *Vindiciæ secundum libertatem Ecclesiæ Gallicanæ, et defensio regii statûs, &c.* 1631. 4to.; another treatise, intitled *Pro libertate statûs et reipublicæ Venetorum*, 1600; and a Remonstrance against Bellarminus.

The number of the *plaidoyers*, &c. contained in this volume is twenty-three, and the causes are as follows:—

1. The ancient Mathurins against the new; 2. Case of the *Régale* with respect to a prebend; 3. Case of an *appel comme d'abus* in respect of a marriage; 4. On the *droit de deport* of the bishopric of Evreux; 5. Case of a prebend in the cathedral church of Meaux; 6. Case of a gift by husband to wife, according to the customary laws of Poitou; 7. Case respecting the office of *président des comptes;* 8. Case of a will, involving the customary laws of Peronne, Montdidier, &c.; 9. A case *sur la cession de droits successifs à un tiers ou à un estranger;* 10. Cause between the washerwomen of Paris and the mercers, &c. of the same city; 11. Case of hypothecation or mortgage, according to the customary laws of La Touraine; 12. Case concerning the *retraict lignager*, according to the customary laws of Chartres; 13. Case concerning the old arrears of the *rentes constituées sur la ville de Paris;* 14. Case of a *criée* or proclamation of sales of property seized, &c.; 15. Case concerning the reformation of the university of Paris; 16. Case touching the jurisdiction of those to whom was committed the wardship of the woods and forests (*grairie et gruerie*); 17. Case concerning the king's *régale* in respect of benefices; 18. Case between the university of Paris and the Jesuits; 19. Cause between the *Trésoriers* of France and the *grand voyeur*, as to jurisdiction, &c.; 20. Cause between a *chastelain* and the inhabitants within his jurisdiction, respecting the election of a syndic, &c.; 21. Case of a revocation of a will, in a *pays coutumier;* 22. Case *sur la requeste civile, contre un arrest de l'audience;* 23. Cause between the *Blancs-manteaux* and the reformed Benedictins.

COLLECTED WORKS OF AUTHORS.

LES ŒUVRES DE CHARLES LOYSEAU, &c. avec les Remarques de Claude Joly, &c. Fol. Lyons, 1701.

Loyseau's works.

The works of Loyseau, with Joly's remarks thereon. This is the best edition of his works.

Charles Loyseau, an eminent advocate in the parliament of Paris, was born about the year 1564, and died at Paris on the 25th October, 1627.

The titles of his works are as follows:—1. DES OFFICES—of Offices. 2. DES SEIGNEURIES—of Lordships, &c. 3. DES ORDRES ET SIMPLES DIGNITÉS—of Orders and Dignities. 4. DU DÉGUERPISSEMENT *et delaissement par hypothèque.* (See the meaning of these words among the Treatises, under the heading "*Déguerpissement.*") 5. DE LA GARANTIE DES RENTES—Of Warranty of Rents, &c. 6. DES ABUS DE LA JUSTICE DE VILLAGES—of the Abuses of Country Justices, &c.

Brillon, in his *Dictionnaire des Arrêts*, article "*Déguerpissement*," states that many persons are of opinion that the Treatise on the *Déguerpissement* was not composed by Loyseau, but by the celebrated Brisson, and that the works which were published under Loyseau's name, were the productions of Brisson. And he adds, that after Brisson's death, his widow took refuge in Loyseau's house, and committed to his care her husband's manuscripts, which Loyseau published in his own name.

Expilly's *Plaidoyers.*

PLAIDOYEZ DE M. CLAUDE EXPILLY, Conseiller du Roy en son Conseil d'Estat, et son Advocat General au Parlement de Grenoble. Ensemble plusieurs ARRESTS ET REGLEMENS NOTABLES du dit PARLEMENT. Seconde Edition, &c. 4to. Paris, 1612.

The *plaidoyers* of Expilly, together with a collection of the decisions of the *Conseil Delphinal* and the parliament of Grenoble.

Claude Expilly, a counsellor of state, and king's advocate in the parliament of Grenoble, was born at Voiron in Dauphiny on the 21st December, 1561, and died at Grenoble on the 25th July, 1636.

The *plaidoyers* are thirty-two in number. The decisions are divided into 158 chapters; the earliest of them is dated in 1297, and the latest in 1611. The *plaidoyers* are stuffed full of quotations according to the bad taste of the times. There is a dedication and an index of the *plaidoyers*, &c., also an index of the decisions, another of authors, and another of subjects.

Plaidoyer 1. Case as to the retention of rank by a lady of quality (*de race*), who had married a doctor of laws. 2. As to the liability of a husband to become bail or surety to his wife's debtor, he offering to pay the dotal property received by him. 3. Case of a watch left to be repaired. 4. On wagers. 5. Case of practice with regard to an appeal. 6. As to certain edicts, prohibiting commerce with Spain, &c. in 1604. 7. On the edict which revoked such prohibition. 8. This is a *cause grasse*, which was pleaded on Shrove Tuesday in 1605, between Jean Gonnard de Belle-Chambre on the one part, and

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Expilly's *Plaidoyers.*

Captain Rochefort on the other. The question was, whether a child born just six months after the marriage, and being *vital* or *viable*, ought to be reputed legitimate and conceived in marriage: and whether the assertion of the mother and the confession of the said Rochefort were sufficient to exonerate the husband; and consequently who was to provide for the child. The greater part of Expilly's argument consists of allusions to the time that was set aside for merriment and relaxation among the ancients, &c. The argument is not *gras* at all. 9. Case on the repairs of a church. 10. Case on warranty. 11. Case of liability as to hired horses, &c. 12. As to prescription of six months in respect of traders' books. 13. Case as to damage by cattle, &c. 14. As to doctors of laws being admitted as advocates in the parliament of Grenoble. 15. Case as to the exemption of a city from the payment of certain dues, &c. 16. Case on a distress of cattle, &c. 17. Case as to whether a bastard can inherit his mother's property. 18. Case as to payment of salary due to a tutor, &c. 19. Case on a legacy. 20. Speech on the appointment of a lieutenant-general for Dauphiny, in 1605. 21. Case on taxes, &c. 22. As to prescription of twenty years in cases of crimes. 23. Case of a bastard demanding the *légitime* out of her father's property. 24. Case arising out of a duel. 25. Case of biting off part of a man's ear. 26. Case respecting false keys. 27. Case of prescription in respect of a fief. 28. Case of a *castellan*. 29. Case on civil death. 30. On the edict against duels, dated in 1609. 31. Case on the proceedings instituted by the third estate (*tiers-état*) of Dauphiny against the nobility of that province. 32. Speech on the occasion of the king pardoning an individual.

The edition of Expilly's *Plaidoyers*, in 8vo. Paris, 1608, contains two Remonstrances by him.

A. Le Maître's works.

LES PLAIDOYEZ ET HARANGUES DE MONSIEUR LE MAISTRE, cy-devant Avocat au Parlement et Conseiller du Roy en ses Conseils d'Estat et Privé. Donnez au Public par M. Jean Issali, Avocat au Parlement. 4to. Paris, 1688.

The *plaidoyers* and speeches of Le Maître, edited by Issali, an advocate in the parliament of Paris.

Antoine Le Maître, an eminent advocate in the parliament of Paris, was born at Paris in 1608, and died at Port Royal-des-Champs, on the 4th November, 1658. He seems not to have left any other work on law.—This is the 7th edition of his *plaidoyers*, &c. There are two dedications, a preface and two indices. The number of the *plaidoyers* is thirty-eight (from 1629 to 1637), among which are three harangues or speeches. The subjects of the *plaidoyers* are as follows:—

Plaidoyer 1. Against a girl that had been disinherited by her father. 2. For the same girl. 3. Case of a gift to natural children. 4. Case respecting the headship of a college. 5. Case of a legacy to two natural daughters, who afterwards became nuns. 6. Case of *appellation comme d'abus*, in respect of a son being forced to take the vows. 7. For Marie Cognot, who was disowned both by father

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and mother. 8. Case of *séparation d'habitation et de biens*. 9. For the *offrande du roy aux curez*. 10. For a confraternity of vicars. 11. For the *Hospitalières de la Charité Nostre-Dame*. 12. Contending that when a *coutume* is silent respecting the age at which a person may make his will, the Roman law should be followed in preference to the *coutume* of Paris. 13. Assessors exempt from taxes (*tailles*). 14. Another case of *separation d'habitation et de biens*. 15. Case concerning the education, &c. of a girl. 16. Another case of *séparation d'habitation et de biens*. 17. Case of alienation of property, &c. 18. A case of rape. 19. Case of an outrage committed in 1628, during the time of civil war. 20. Gentlemen exempt from servitudes, &c. 21. For the rights of rural deans. 22. For the widow and children of a Frenchman who died in Savoy. 23. Case concerning the *droit, &c. des premières prières*. 24. A case of rape. 25. For a gentleman accused of crimes. 26. For a husband who had killed his wife's father. 27. Case concerning the violent behaviour of a guardian towards his ward (female). 28. Case of prescription of twenty years, as to a fratricide. 29. Case of a will. 30. Case of dower, &c. 31—33. Three harangues, made severally on the presentation of the Chancellor Séguier to the parliament of Paris, to the *Grand Conseil*, and to the Court of Aids. 34. Cause between a father and a son. 35. Concerning a discharge from taxes, &c. 36. Case relating to a claim made by an Englishman to a legacy left him by his uncle, who died in France. 37. Case of substitution. 38. The reply in the same case, in favour of the substitution.

Works of O. and D. Talon.

ŒUVRES D'OMER ET DE DENIS TALON, Avocats-généraux au Parlement de Paris; publiées sur les Manuscripts Autographes, par D. B. Rives, Avocat aux Conseils du Roi et à la Cour de Cassation. 6 vols. 8vo. Paris, 1821.

A collection of the works of Omer and Denis Talon, father and son, successively most eminent advocates-general in the parliament of Paris, edited by Rives, an advocate in the king's council and in the court of Cassation.

Omer Talon was born about 1595, and died in 1652. His *Mémoires*, published at the Hague, in 8 vols. 12mo. 1732, are not in this edition.

Denis Talon was born about 1628, and died in 1698.

Omer Talon's works occupy the first, third and fourth volumes, and consist of—44 discourses, made between 1637 and 1652, and called political by the editor; an *Eulogium* of Bignon, advocate-general; a tract on Scholastic Theology; an *Eulogium* of Doujat; 49 *Plaidoyers*, between the years 1632 and 1649. Besides these works, the editor has given, in his *avertissement* to the first volume, the subjects of 35 *Mercuriales* by Omer Talon.

[*Mercuriales* were speeches delivered in the sovereign and presidial courts, by one of the presidents or the advocate-general, or other official person, at meetings held for that purpose. In the parliament of Paris these speeches were made alternately by the first president, the advocate-

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general, and the attorney-general. The subjects of the discourses were in general the duties of the magistrates, advocates, &c., and other similar matters. In Francis the First's age, and for a considerable time afterwards, these speeches or exhortations were delivered several times in the year; but in the later times of the monarchy they were made only twice a year, namely, on the first Wednesday after the Feast of St. Martin, and the first Wednesday after Easter. Some authors derive the word *mercuriale* from the fact of the speech being delivered on a Wednesday (*Mercredi*). The courts, in whose presence these speeches were made, had the power of punishing their magistrates, as well as the advocates and other persons practising in them, &c. Although the *Mercuriales*, as such, are no longer in use, yet they differ but little from the present *discours* delivered by the attorney-general or one of the advocates-general, at the *rentrée des cours*. A provision was made in respect of the modern *discours*, by a decree of the year 1810.]

The works of Denis Talon occupy the second, fifth and sixth volumes, and consist of five discourses, twenty-four *mercuriales* (between 1656 and 1687), and forty-two *plaidoyers*, from about 1652 to 1664. The first of these *plaidoyers* is numbered as the fiftieth, and the last as the ninety-first, in continuation of Omer's *plaidoyers*. The *plaidoyers* of Omer are inserted in the third and fourth volumes, and those of Denis in the fifth and sixth.

The first volume of this edition contains a dedication by the editor to Count Desèze, an introduction, an oration pronounced by Lullemont on the occasion of Omer Talon's death, with notes, &c. by the same, and a preliminary discourse by the editor; and the second volume has a biographical notice of Omer Talon.

OMER TALON'S WORKS.

Vol. I.—Forty-four discourses, or speeches and addresses to the parliament of Paris. The twenty-third treats of obedience to the king, except in what is contrary to the laws. [It was the duty of the advocate-general to make a discourse or speech at the opening of the parliament.]

Vols. III. IV.—Forty-nine *plaidoyers*.

Plaidoyer 1. Case of foreigners—whether they and their children can enjoy the benefit of the *coutumes;* 2. Case of a person, who had taken the vows, claiming a succession after having left his monastery thirty years; 3. Case of donation by an intended nun to a convent; 4. Case on the *coutume* of Chartres, as to a claim to *propres* made by the children of a second marriage; 5. Case of the apprehension of a criminal in a foreign country; 6. Whether a widow, being a minor, can contract a marriage against the will of her father and mother; 7. Case on the *coutume* of Péronne, whether a father can give more, but not less, than the *quint héréditat;* 8. Case of *dénonciation de nouvel œuvre;* 9. Whether hermits can succeed to property, &c.; 10. Case of an *accouchement* seven months after the husband's death; 11. Case of jurisdiction as to questions on marriages; 12. Case of a marriage contracted by a minor (a girl) against the wishes of her guardians, &c.; 13. Case of a clandestine marriage; 14. Curious case as to fornication; 15. Case of a grant of entry to a church by a pri-

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vate door; 16. Case of bigamy—community of property; 17. Case of disinheritance—revocation; 18. Case of rape, under promise of marriage; 19. Case of a *rappel* to a succession; 20. Case of a marriage by a minor, who stated himself to be of age; 21. Case as to the rule *de publicandis;* 22. Case of a person calling himself the legitimate son of another; 23. Case of a marriage, the girl not being twelve years old at the betrothment; 24. Whether a woman loses her dower by passing off a supposititious child; 25. Whether proof testimonial of a secret marriage is admissible; 26. Case of a *demande en interdiction, pour cause de lubricité;* 27. Case concerning *conventions matrimoniales*; 28. Whether a kept mistress can require the person who debauched her to marry her; 29. Whether the education of a daughter may be confided to a mother, who is of the reformed religion; 30. Case of a *billet d'épargne*; 31. Case of acknowledgment of the legitimacy of a child; 32. Case of succession, according to the *coutume* of Berry; 33. Case of interpretation of a *clause dérogatoire* inserted in a will; 34. Whether confiscated property, which is restored to the family, becomes *acquêts* or *propres*, &c.; 35. Whether a priest who is about to embrace the reformed religion can marry; 36. Whether, when a *coutume* is silent as to the age at which a person can make his will, recourse is to be had to the Roman law; 37. Case of a concealed birth, &c.; 38. Case as to precedency between the king's officers and the clergy; 39. Case as to *coadjutoreries*, &c.; 40. Case as to the validity of a marriage; 41. Case of the resignation of a bishopric; 42. Case of a girl taking the vows, and contracting a marriage afterwards; 43. Case as to a *clause résolutoire* in a transaction; 44. Case of appanage; 45. Case of a marriage contracted by a person who had taken the vows; 46. Case of restitution to a widow of her *conventions matrimoniales;* 47. Case of a secret marriage between a Frenchman and a foreigner, in a foreign country; 48. Case of a girl born ten months and eight days after the husband had been away; 49. Case of rape.

DENIS TALON'S WORKS.

Vol. II.—The Discourses. The 2nd of these Discourses was delivered at the opening of the *Grands-Jours* of Clermont, in 1665.

The *Mercuriales.*—The 2nd of these treats of *mercuriales* generally; the 4th, of submission to the laws; the 6th, of the public good; the 10th discusses the question whether fire or water should be preferred; the 21st treats of dreams; the 24th shows that moderation should be the peculiar characteristic of an advocate.

Vol. V. VI.—The *Plaidoyers. Plaidoyer* 50. Case concerning the spiritual jurisdiction of a bishop, *en matière de prédication;* 51. Whether in the case of a son dying invested with an office bought for him by his father, such office is an *acquêt* or a *propre;* 52. Case of the verification of a marriage; 53. Case of a donation which diminishes the *droit d'aînesse*, &c.; 54. Case of prescription as to a mortgage, &c.; 55. Case of residence in a canon's house, &c.; 56. Case as to the

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legitimacy of a child, the husband declaring himself to be impotent; 57. Whether collateral heirs are allowed to accuse a widow of adultery; 58. Case of the marriage of a person who is of age, against the forms of the council, &c.; 59. Curious case of a child of a second marriage, which was contracted while the first husband was alive, but whose death had been reported to the wife; 60. Case of a deacon wishing to be married; 61. Case of a minor, when he came of age, disputing an exchange of his property made by his guardian; 62. Case of a suit for a divorce, on account of jealousy; 63. Whether contracts entered into by persons, who have taken the vows, for the benefit of their confessors, are good; 64. Case of an obligation made *ob turpem causam;* 65. Case of a mutual gift; 66. Case of a son being universal legatee, and his brother having a legacy of the usufruct, &c.; 67. Case as to the right of a widow, who is guardian to her children, to sell an office belonging to her deceased husband; 68. Case of a rape; 69. Case as to the *obligation du secret naturel et divin*, &c.; 70. Curious case concerning the *domaine;* 71. As to the claim of a father for *dommages-intérêts* against persons whom he accused of having caused the death of his son; 72. Case of property given in consideration of a marriage, &c.; 73. An important case on the origin and rights of peers; 74. Case of a will made before the ordinance of 1550; 75. Case as to the institution of an heir *rei particularis;* 76. Case of a will *fait par haine*, &c.; 77. Whether filiation is provable by witnesses; 78. Whether a vicar can oppose the establishment (*érection*) of a new vicarage in his parish, &c.; 79. Case as to a community of property, according to the *coutume* of Montargis; 80. Case of a mutual *olograph* will, according to the *coutume* of Poitou; 81. Curious case as to the *status* of the children of a professed person who had married before obtaining a brief from the Romish court, and who died pending the appeal; 82. Case of a disowned daughter—on what occasions proof testimonial is allowed, to establish filiation; 83. Case of a will, whereby a father instituted his son universal legatee, &c.; 84. As to a person changing his name; 85. A case concerning the *domaine* of the crown; 86. Whether, according to the *coutume* of *Vermandois*, the nephews *concourant* with the uncles, can exclude them; 87. An important cause between the Prince of Conti and the Duke of Lorraine (1660); 88. Case of the disinheriting of a grand-daughter; 89. Case of the union of a vicarage to a chapter; 90. An important case of a rape; 91. Whether a bishop has the right to censure publicly a declaration concerning ecclesiastical discipline, which was promulgated by the royal authority, at the request of the majority of the prelates of the kingdom, and in concert with the pope.

Henrys's works.

ŒUVRES DE M. CLAUDE HENRYS, Conseiller du Roi, et son Premier Avocat au Bailliage et Siège Présidial de Forez. Contenant son Recueil d'Arrêts, vingt-deux Questions posthumes, tirées des écrits de l'Auteur trouvés après son decès; ses

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Henrys's works.

Plaidoyers et Harangues; avec des Observations sur les Changemens de la Jurisprudence depuis la mort de l'Auteur, &c. Par M. B. J. Bretonnier, Avocat au Parlement. 4 vols. fol. Paris, 1772.

A collection of the works of Henrys, king's counsellor, &c., with remarks on the changes in the law which took place since the author's death; edited by Bretonnier, an advocate in the parliament of Paris.

Claude Henrys, an eminent lawyer, was born in 1615, and died in 1662.

The present edition of his works is the sixth. Each volume has an index of the chapters, &c., and the first volume has a preface.

The first three volumes comprise—1. 580 *questions* or arguments on different points of law, with remarks and observations; they are divided into six books. The most important subjects treated on are:—benefices, tithes, ecclesiastical matters generally, legacies to pious uses, mortmains, the alienation of church property; offices; domains; mayors and *échevins;* the *prévôts des maréchaux;* fiefs and matters connected therewith; *corvées;*—a question whether the king can exchange or alienate the provinces of his kingdom;—dowry, prescription, farms, &c.; renunciations by women; adultery; sorcery; taxes; partnerships; novations; mortgages; the rescinding of contracts; gifts of property present and to come; the various kinds of wills; elections by heirs; substitutions; the benefit of the inventory; disinheritances; the Falcidian portion; succession *ab intestato;* succession by mothers; succession by bastards; reversions; successions as between husband and wife; legacies; the legitimation of bastards; primogeniture; adoption; entering into religious orders; the Trebellianic portion; hotchpot (*rapport*). The decisions of the courts, and the edicts, &c. of the kings are occasionally given.

Vol. IV.—2. Fifteen *questions;* seven *consultations.* 3. A Treatise on the Court of the Mint at Lyons, and the jurisdiction of the seneschalsy and presidial court of the same city, together with several edicts on the subject. 4. Twenty *plaidoyers.* 5. Harangues and discourses made at the openings of the sessions of the bailiwick and presidial court of Forez, in which the author was a counsellor and first king's advocate. 6. Observations on the usages of the parliament of Besançon. 7. A Supplement, consisting of the decisions of various courts, divided into two books, and subdivided into chapters, &c. [This is a digest of cases. The subjects of these decisions are much the same as those of the *questions* in the first three volumes.] 8. Twenty-three *consultations,* and one *question.*

The subject of the *plaidoyers* are as follows:—*Plaidoyer* 1. Case of a benefice, the advantage of possession, &c. 2. Case on the same subject. 3. Case of a marriage contract. 4. Case of election by heirs. 5. Curious case as to whether a child was born alive. 6. This is a *cause grasse,* and treats of the *status* of children born of a woman, who, under the pretence that her husband was impotent, had caused a separation to be decreed, although she was *enceinte* at the time. Henrys, in his exordium to this *plaidoyer,* compares marriage to a game at back-gammon. The husband had

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Henrys's works.

offered the *congrès*, (this was abolished in 1677). 7. Case concerning *lettres de rescision*. 8. Case of a *clause dérogatoire* in a will. 9. Case as to whether a mother was to be allowed to educate her children, &c. 10. Case of arresting a married woman. 11. Case of a gift to a college. 12. Case of a presumed marriage. 13. Case on the marriage of girls under age. 14. Case as to proof testimonial. 15. Case on the *augment*. 16. Case on the *droits honorifiques*, &c. 17. Case on a legacy to the Jesuits. 18. Another case concerning the *augment*. 19. Case on the *retrait féodal et lignager*. 20. Case on farming leases.

Du Périer's works.

ŒUVRES DE SCIPION DU PÉRIER, Écuyer et Doyen de Messieurs les Avocats au Parlement de Provence. Nouvelle Édition, &c. Par Mons. D. L. T. Avocat au même Parlement. 3 vols. 4to. Avignon, 1759.

A new edition of Du Périer's works.

Scipio Du Périer, dean of the advocates in the parliament of Aix, was born in that city in 1588, and died in 1667.

Vol. I. contains — 1. Four books of QUESTIONS NOTABLES (104 in number) on various points of law, which are stated in the preface to have been composed out of the cases submitted to the author for his opinion. 2. MAXIMES DE DROIT (28 in number); these seem to be short notices or treatises on various points of law. To each *question* and maxim are added the remarks of the editor.

Vol. II. contains—3. *Décisions* (in four books) taken from the commentaries of Du Moulin on the *Droit écrit* and the *coutume* of Paris, from his treatises on Usury, and *de dividuo et individuo*, and from other authors. 4. A collection of Du Périer's *Plaidoyers* (12 in number). 5. Decisions (*arrêts*) of the parliament of Aix, taken from the Mémoires de M. Thoron (1559—86). 6. Twenty-seven Decisions of the same parliament (from 1537 to 1637), collected by M. Louis de Coriolis, a *président à mortier* in the parliament of Aix. To these collections of decisions are added the remarks of Du Périer. 7. Decisions of the same parliament, collected by Du Périer, and arranged under headings, with remarks by the editor.

Vol. III. contains—8. Five books of QUESTIONS NOTABLES on successions, legacies, &c. 9. Several *plaidoyers*. 10. Thirteen dissertations.

The 1st volume of this edition has a preface, containing a biographical account of Du Perier; and each volume has two indices.

Auzanet's works.

ŒUVRES D'AUZANET, contenant ses Notes sur la Coutume de Paris, &c. Fol. Paris, 1708.

This is the best edition of Auzanet's works.

Barthélemi Auzanet was born at Paris in 1591, and died on the 17th April, 1673. His works consist of a Commentary on the *Coutume* of

Paris, some *Mémoires*, and a Collection of Decisions of the Parliament of Paris. He collected the *Arrêtés* of the President de Lamoignon, which are in a manner projects of laws, and are printed among Auzanet's works. COLLECTED WORKS OF AUTHORS.

The notice of De Lamoignon's *Arrêtés*, at p. 97, was probably misplaced, but the compiler had great difficulty in finding an appropriate place for them.

ŒUVRES DE Mᵉ. JEAN-MARIE RICARD, Avocat au Parlement. 2 vols. fol. Paris, 1685—1701. Ricard's works.

A collection of the works of Ricard.

Ricard, an eminent lawyer, and an advocate in the parliament of Paris, was born at Beauvais in 1622, and died in 1678.

The titles of the works comprised in these volumes, are as follows:—1. *Traité des Donations entre-vifs et testamentaires.* 2. *Traité du Don Mutuel, fait par Testament ou par Contrat.* 3. *Traité des Dispositions conditionelles, onereuses, &c.* 4. *Traité des Substitutions directes et Fidéicommissaires.* 5. *Traité de la Representation et du Rappel, en matière de Succession.* 6. *La Coutume de Senlis, commentée, &c.*

Ricard also wrote a commentary on the Coutume of Amiens, which was printed at Paris, in 12mo. 1661.

Each volume of the present edition contains a dedication and indices. An improved edition of the treatises was published at Clermont-Ferrand, in 2 vols. fol. 1783. The treatises, &c. are divided into parts, chapters and sections, and are distributed in the volumes as follows.—

Vol. I.—1. TRAITÉ DES DONATIONS, &c.—A Treatise on Donations *inter vivos*, and Testamentary Gifts.

Part 1. *What is required for perfecting donations and wills.* Chap. 1. Of donations *inter vivos*, and wills generally; 2. Of the difference in the Roman law between donations *causâ mortis* and wills; 3. Who may make and who may take such gifts; 4. Of the formalities required in donations *inter vivos*; 5. Of the formalities required in wills; 6. Of the subject-matter of gifts *inter vivos* and those by will.

Part 2. *Of what relates to the carrying into effect of donations and wills.* Chap. 1. Of the execution of the will, and the delivery of the legacies, &c. 2. Of executors generally; 3. Of the interest payable to legatees, &c.; 4. Of the construction of donations *inter vivos*, and testamentary gifts.

Part 3. *Of the revocation of donations and wills, either wholly or in part.* Chap. 1. Of contesting donations and wills; 2. Of the revocation of wills; 3. Of the ademption and extinguishment of legacies; 4. Of survivorship; 5. Of the revocation of donations by the testator having children after the making of the donation; 6. Of the revocation of donations for ingratitude on the part of the donees; 7. Of other ways or causes of revocation; 8. Of the *légitime;* 9. Of the diminution which occurs in respect of donations *inter vivos*, and testamentary gifts, on a second marriage taking place; 10. Of the restrictions as to gifts in the various *coutumes;*

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11. Of the diminution of donations, &c. in respect of debts; 12. What persons may not contest wills, &c.

Ricard's works.

Vol. II.—2. Traité du Don Mutuel, &c.—A Treatise on Mutual Gifts, chiefly between husband and wife.

Chap. 1, 2. Whether a mutual gift is a *titre lucratif* or *onéreux*, &c.; 3. Whether a mutual gift is considered as an act *inter vivos*, or a gift *causâ mortis*; 4. Of the construction of article 58 of the ordinance of Moulins, and article 284 of the *coutume* of Paris; 5. Of mutual donations between husband and wife in particular; 6. Of the burthens to which mutual gifts are liable; 7. To what *coutumes* recourse is to be had to decide on the validity or invalidity of gifts *inter vivos* and testamentary gifts; 8. Of usufruct in respect of mutual gifts.

3. Traité des Dispositions conditionelles, &c.—A Treatise on Conditional Gifts, &c. The chapters of this treatise (five in number) enter into details as to these gifts or dispositions, which are termed conditional, *onéreuses, rémunératoires, démonstratives, causées, dilatoires et à temps.*

4. Traité des Substitutions, &c.—A Treatise on Substitutions, &c.

Chap. 1—9. Of the origin, definition, &c. of substitutions and trusts; 10. When the trust (*fidéicommis*) is opened; 11. Of the heir's power of choosing a trustee; 12, 13. What property is to be given up by the heir for the purposes of the trust, &c.; 14. How the expenses of the inheritance as between the heir and the trustee are to be defrayed; 15. Of the heir's power over the testator's property; 16. Whether the trustee cannot put himself in possession of the trust property without delivery, &c.; 17. Of the Trebellianic portion, &c. Three opinions (*consultations*) on substitutions, and on a donation.

5. Traité de la Représentation et du Rappel, &c.—A Treatise on Representation, and the calling to a Share of the Inheritance, &c.

This treatise, which is divided into eight chapters, appears to be chiefly a commentary on the 139th and 140th articles of the *coutume* of Senlis.

6. Coutumes du Bailliage de Senlis, &c.—A Commentary on the Customary Laws of Senlis, accompanied with the text.

It may be observed, that both these volumes are headed "*Traité des Donations.*"

Patru's works.

Œuvres diverses de M. Patru, de l'Académie, &c. 4to. Paris, 1714.

A collection of Patru's works, which consist of *plaidoyers, factums*, speeches, letters, a short treatise on tenths, another on the assemblies of the clergy, and several other small pieces.

Olivier Patru, an eminent advocate in the parliament of Paris, and dean of the French Academy, was born at Paris in 1604, and died on the 16th January, 1681.

This edition is divided into two parts, the first of which contains the *plaidoyers* and *factums*, and the second the other works. The *plaidoyers* are twenty-one in number, and have dates affixed to each.

Patru's works.

Plaidoyer 1. For the Duke de Noailles; 2. For the Duke of Sully and others; 3. For the *Pères Mathurins;* 4. For the university of Paris; 5. For the nuns of the convent of *Nôtre Dame* at Nevers; 6. For Madame de Rambouillet de Monceau; 7. For the Count of Noailles; 8. For the widow and children of Pierre Doublet; 9. For M. Gratien Galichon; 10. For the Seigneur de la Rochehelie and others; 11. For Daniel Ayère, a carman; 12, 13. For M. Michel Desprez; 14. On the contest respecting precedency in the states of Brittany between the Dukes of Rohan and of La Trémouille; 15. For Hérard d'Almets, Dean of Cayrac; 16. For the Prince of Conti and others, against the regular canons of the abbey of St. Léon de Toul; 17. For Madame de Guenegaud, a prioress; 18. Against the Urbanists; 19. For François de Saint Germain; 20. For Blaise Le Hongre, a guardian; 21. For the Sieur Betauld.

The *factums* are for the Sieur des Réaux; the Seigneur de Bourron and his wife; for Du Fresney and his wife; and for the Seigneur de Sussy.

Basnage's works.

ŒUVRES DE MAÎTRE HENRI BASNAGE, Écuyer, Seigneur de Franquesnei, Avocat au Parlement, contenant ses COMMENTAIRES SUR LA COUTUME DE PARIS, et son TRAITÉ DES HYPOTHÈQUES. 4ème edition, augmentée de Notes relatives à la Jurisprudence du Palais. 2 vols. fol. Rouen and Paris, 1778.

A collection of Basnage's works, consisting of a commentary on the customary laws of Normandy, and a treatise on mortgages.

Henri Basnage, an advocate in the parliament of Rouen, was born near Carentan on the 16th October, 1615, and died at Rouen on the 20th October, 1695.

This edition of his works has a dedication, an introduction, and two indices. The first edition of the Commentary was published in 1678, and of the Treatise in 1687.

The Treatise on Mortgages is divided into two parts, which are subdivided into chapters.

Part I. Chap. 1—10. Of the origin of mortgages, and the methods used for securing the same; a definition of mortgages, their formation and effects, their variety, and what things may be mortgaged; of conventional and tacit mortgages, and mortgages (*hypotheca et pignus*) among the Romans; of the order or priority of mortgages; of mortgages of immoveable and moveable property. 11—17. Of the mortgage security and its form; of priority among mortgage creditors; of privileged or specialty debts; of actions on account of mortgages; of the extinguishment, &c. of mortgages.

Part II. Chap. 1—7. Of sureties, and of actions by creditors against them; and of actions by them against the mortgagor, and also against one another; of the extinguishment of actions arising out of suretyship. Several royal edicts, &c. on this subject.

COLLECTED WORKS OF AUTHORS.

ŒUVRES DE RENUSSON, nouvelle Edition, augmentée de la nouvelle Jurisprudence, par J. A. Sérieux. Fol. Paris, 1780.

Renusson's works.

A collection of Renusson's works, edited by Sérieux.

The author was born at Le Mans in 1632, and died at Paris in 1699.

The titles of his works are as follows:—1. *Traité de la Communauté des biens entre Mari et Femme*—A Treatise on Community of Property between Husband and Wife. 2. *Traité du Douaire*—A Treatise on Dowry. 3. *Traité de la Garde-Noble et Bourgeoise*—A Treatise on Guardianship, both noble and *roturière*. 4. *Traité des Propres*—A Treatise on Property by Descent (so called). 5. *Traité de la Subrogation de ceux qui succèdent au lieu et place des Créanciers*—A Treatise on Subrogation in respect of Creditors' Rights, &c.

Le Brun's works.

ŒUVRES DE M. DENIS LE BRUN, Avocat au Parlement. 2 vols. fol. Paris, 1700—9.

A collection of the works of Denis Le Brun, an advocate in the parliament of Paris, comprising—1. *Traité des Successions*; 2. *Traité de la Communauté entre Mari et Femme*; 3. *Traité des Communautez ou Societez Tacites*. The first of these treatises is in the volume printed in 1700, and the other two in that printed in 1709. This last volume was published after the author's death.

Le Brun, an advocate in the parliament of Paris, was born about 1635, and died about 1703.

Vol. I.—1. TRAITÉ DES SUCCESSIONS—A Treatise on Successions. This treatise is divided into four books, which are subdivided into chapters. The 1st book treats of those to whom persons succeed or inherit; the 2nd, of those things, &c. which are inherited; the 3rd, of the ways of succeeding or inheriting; and the 4th, of the burthens, &c. attached to successions or inheritances. There is a preface and two indices.

Book I. Chap. 1. Of the opening of the succession; 2. Of those who are capable or incapable of inheriting; 3. Of those who are not born at the time of the opening of the succession; 4—6. Of the succession by descendants, ascendants and collaterals; 7. Of succession as between husband and wife.

Book II. Chap. 1.—Of *propres* (property by descent); 2. Of the succession to fiefs; 3. Of the *légitime* according to the *Lex Papiniana*; 4. Of the *légitime* according to the various customary laws of France; 5. Of dowry, &c.; 6. Of the edict of Francis II. concerning second marriages; 7. Of the profits of the inheritance, emblements, &c.; 8. Whether the heir succeeds to all the rights and obligations of the deceased.

Book III. Chap. 1. Of the rule that *le mort saisit le vif*; 2. Of the *institutions contractuelles* (particular kinds of marriage contracts); 3. Of adoption and affiliation; 4. Of the *bénéfice d'inventaire*; 5. Of representation; 6. Of refunding or hotchpot; 7. Of the incompatibility of the natures of donee, legatee, *douarier* (a child electing to take his share of the *douaire*, and renouncing the paternal inherit-

ance), and heir; 8. Of renunciations; 9. Of the incapacity to succeed, and of *indignes*; 10. Of *rappels* (appointments by testators of persons to succeed to their property who had been before excluded).

Le Brun's works.

Book IV. Chap. 1. Of the division of the property; 2. Of the debts of a deceased person.

Vol. II.—2. Traité de la Communauté entre Mari et Femme—A Treatise on Community of Property between Husband and Wife. This treatise is divided into three books, which are subdivided into chapters, &c. There is a dedication, a preface, and two indices. The 1st book treats of the formation of the community; the 2nd, of its management; and the 3rd, of its ending or dissolution.

Book I. Chap. 1, 2. Of the variance in the different *coutumes* respecting such communities, and as to which *coutume* is to decide; 3. How the community may be rejected or modified; 4, 5. When it begins and how it is constituted.

Book II. Chap. 1. Of the authorization by the husband; 2. Of the rights of both parties over the property; 3. Of the expenses incidental thereto.

Book III. Chap. 1. Of the different ways in which the community ends; 2. Of the rights of the parties, or their heirs, after its dissolution; 3, 4. Of the continuation of the community, &c.; 5. Of the interest of the wife to whom has been assigned a fixed sum instead of all rights respecting the community.

3. Traité des Communautez ou Societez tacites—A Treatise on Tacit Communities or Partnerships. This treatise is divided into eight chapters, which are subdivided into sections.

Chap. 1—8. Who may form such communities, and how they are formed; of their management and dissolution; of the division of the property, &c.

Recueil de Consultations sur diverses matières de Droit, par François de Cormis. 2 vols. fol. Paris, 1735.

Cormis's Opinions.

A Collection of the Opinions (*Consultations*) of De Cormis on various points of law.

François de Cormis, an advocate in the parliament of Aix, was born at Aix in 1664, and died in that city in 1734. His opinions were held in great repute.

Œuvres complètes de Cochin, Avocat au Parlement de Paris. Nouvelle édition, classée par ordre de matières, &c. par M. Cochin, Avocat aux Conseils du Roi et à la Cour de Cassation. 8 vols. 8vo. Paris, 1821—22.

Cochin's works.

A new and complete edition of Cochin's works, arranged under appropriate headings.

Henri Cochin, an eminent advocate in the parliament of Paris, was born in that city on the 10th June, 1687, and died on the 24th February, 1747.

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Cochin's works.

His works consist of a number of *Questions*, which are divided into eight parts; and the headings of the subjects comprised in the parts are as follows:—

Part 1. The condition of persons; 2. Property and ownership, and the modifications thereof; 3. The different ways of acquiring the ownership of property; 4. Civil law process; 5. Criminal law process; 6. Ecclesiastical law; 7. Feudal law; 8. Commercial law, and various other matters.

There is a biographical account of the author and his works, a portrait of him, and several indices.

D'Aguesseau's works.

ŒUVRES COMPLÈTES DU CHANCELIER D'AGUESSEAU. Nouvelle édition, augmentée de Pièces échappées aux premiers éditeurs, et d'un Discourse préliminaire, par M. Pardessus, Professeur à la Faculté de Droit de Paris, &c. 16 vols. 8vo. Paris, 1819.

A complete collection of d'Aguesseau's works, edited by Pardessus, who has added several unpublished minor works of the author.

Henri-François d'Aguesseau, one of the most eminent chancellors and lawyers of France, was born at Limoges on the 7th November, 1668, and died in 1751.

The first volume of this edition contains a notice by the editor, a preliminary discourse on the author's works, an eulogy of him by Thomas, a Greek ode by Coray in his praise, and his portrait. The contents of the volumes are as follows:—

Vol. I. contains—1. Three discourses or orations made at the opening of the sessions of the parliament of Paris, the first of which treats of the independence of the bar. 2. Nineteen *Mercuriales*, the fourth of which treats of the dignity of the magistracy; and the eighth to the seventeenth, of magistrates and their duties. 3. Seven *Réquisitoires, &c.* 4. Eight *Plaidoyers*. The subjects of these latter are as follows:—

Plaidoyer 1. Case of a legacy bequeathed to a monastery, &c. 2. Case concerning the *status* or filiation of a woman,—whether proof testimonial was admissible. 3. Case of a *saisie féodale*. 4. Case of disherison. 5. Case of a benefice. 6. Another case as to the *status* or filiation of a woman. 7. Case of a marriage. 8. Case of prescription according to the *coutume* of Anjou.

Vols. II.—V.—Continuation of the *Plaidoyers*.

Plaidoyer 9. Case of a succession and creditors' claims. 10. Case of a will and codicils made *ab irato*. 11. Case of the rescinding, by a person when of age, of a contract made during his minority. 12. Case of an appeal *comme d'abus* in respect of a marriage. 13. Case of a donation by a husband and wife to an advocate for money owing to him. 14. Case of a grandson, born after the death of his grandfather,—with respect to the inheritance of his grandfather. 15. Case as to the rescinding of a sale made by a guardian of his ward's

property. 16. Case respecting the augmentation of the *portion congrue*. 17. A case of bastardy,—question as to the admission of proof testimonial. 18. Case of succession according to the *coutume* of Anjou. 19. Case of a marriage contracted by a minor, who stated himself to be of age. 20. Case of succession according to the *coutume* of La Marche. 21. Case concerning a right of presentation. 22. Case of filiation or the *status* of a woman. 23. Case of concealed birth and adultery. 24. Case concerning tithes. 25. Case concerning a dispensation for the admission of an illegitimate person into a chapter. 26. Case concerning a papal brief. 27. Case respecting dotal property. 28. Case of two *appels comme d'abus*. 29. Case of a will. 30. Case on the marriage of minors, without the consent of their fathers, &c.—publication of banns. 31. Case of community of property and mutual donations. 32. Case concerning the *droit d'aubaine*. 33. Case of a marriage contracted without the mother's consent, &c. 34. Case of a child that was born three months after marriage. 35. A case of disherison. 36. A marriage case. 37. The important cause between the Prince of Conti and the Duchess of Nemours (1696), respecting a substitution. Another *plaidoyer* on the same subject (1698) follows this, together with some remarks on the cases. 38. The important case of the Duke of Luxembourg and the other lay dukes and peers (1696), respecting the peerage. 39. Case as to the admissibility of proof testimonial. 40. Case on a substitution. 41. Case on the 279th article of the *coutume* of Paris, in respect of second marriages. 42. Case concerning tacit profession, that is, without taking the vows. 43. Case of *appel comme d'abus* in respect of a marriage. 44. Case of a person who had taken the vows. 45. Case concerning the headship of a college. 46. Case of the revocation of a will, &c. 47. Case of legitimization of children by marriage (subsequent). 48. Case of a benefice. 49. The important case of the Duke of Albret and other creditors of the house of Lauzun (1697). 50. Case of community of property between husband and wife. 51. The case of Louis de la Pivardière, a person who was thought to be dead, &c. This cause is among the *Causes célèbres*, No. 10. This *plaidoyer* is followed by another in the same cause. 52. Case concerning a right of patronage. 53. Case of a substitution. 54. Case of a will. 55. Case concerning a chapel, &c. 56. Case of rape. 57. Case of the marriage of the Duke of Guise with the Countess of Bossu.—This cause is to be found among the *Causes célèbres*, No. 60. 58. Case respecting a will. The decision of the court accompanies every *plaidoyer*.

Vols. VI. VII.—Twenty *Requêtes* (petitions to the parliament of Paris), and a dissertation on bastards.

Vol. VIII.—Eleven *Mémoires* on important subjects; three small tracts; several historical *Mémoires* (from 1697 to 1710) on the affairs of the Gallican church; three *Mémoires* relating to the continuation of a history of the Jesuits.

Vol. IX.—Several *Mémoires* on various subjects, the most important of

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which appear to be those on the royal and ecclesiastical jurisdictions; an essay on the condition of persons; a dissertation *sur l'erreur du droit;* a project for the creation of *conservateurs des hypothèques.*

D'Aguesseau's works.

Vol. X.—Two *Mémoires;* a *Discours* or speech, and some fragments relating to the origin of the *Remontrances* of the parliament of Paris. In this volume begins the official correspondence of d'Aguesseau, dated from 1720 to 1750, the year before his death. The correspondence is divided into six parts; the 1st of which relates to political law; the 2nd to administration generally; the 3rd to the administration of justice, and legislation; the 4th to criminal process, and the legislation relative thereto; the 5th to civil process, and the legislation relating to it; the 6th contains letters and ordinances, &c. relating to civil law.

Vols. XI. XII.—The official correspondence continued.

Vol. XIII.—The same concluded; several minor pieces, among which are the *Considérations sur les Monnoies,* and a *Mémoire* relating to shares in the *Compagnies des Indes.*

Vol. XIV.—Ten metaphysical meditations on the true or false ideas of justice.

Vol. XV.—Five *Instructions* on law, &c.; an *Essai d'une Institution au Droit public;* a discourse on the life and death of the author's father; observations on Jesus Christ.

Vol. XVI.—Letters on various subjects; three specimens of d'Aguesseau's hand-writing; and a general index to the sixteen volumes.

De Héricourt's works.

ŒUVRES POSTHUMES DE LOUIS DE HÉRICOURT, contenant ses Consultations et Mémoires sur des Questions de Droit Civil et de Droit Canonique. 4 vols. 4to. Paris, 1759.

The posthumous works of De Héricourt, the most eminent of French canon lawyers.

Louis de Héricourt, an advocate in the parliament of Paris, was born at Soissons in 1687, and died at Paris on the 18th October, 1752.

This collection contains his opinions (*consultations*), &c., on points in the Roman and Canon laws.

His other principal work is his *Lois Ecclésiastiques de France,* which will be found noticed in this part of the Catalogue, among the treatises, article "Ecclesiastical Law."

Furgole's works.

ŒUVRES COMPLETTES DE M. FURGOLE. Nouvelle Édition, revue, corrigée et augmentée. 8 vols. 8vo. Paris, 1775—76.

A new edition of the collected works of M. Furgole.

Jean-Baptiste Furgole, an advocate in the parliament of Toulouse, was born in 1690 and died in 1761.

The following are the titles of the works comprised in this edition:—

1. *Traité des Testamens, Codiciles, Donations à cause de Mort, et autres*

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Furgole's works.

Dispositions de dernier Volonté, suivant les Principes du Droit Romain, les Ordonnances, les Coutumes et Maximes du Royaume, tant des Pays du Droit Écrit, que Coutumiers et la Jurisprudence des Arrêts. 2. *Traité de la Seigneurie Féodale universelle, et du Franc-alleu naturel.* 3. *Ordonnance de Louis XV. Roi de France et Navarre, pour fixer la Jurisprudence sur la nature, la forme, les charges et les conditions des Donations, donnée à Versailles, au Mois de Février,* 1731; *avec des Observations, autorisées par les Ordonnances, le Droit Romain, et les Arrêts des Parlemens.* 4. *Questions remarquables sur la matière des Donations, avec plusieurs Arrêts du Parlement de Toulouse, pour servir de Supplement aux Observations sur l'Ordonnance du Mois de Février,* 1731. 5. *Commentaire de l'Ordonnance de Louis XV., sur les Substitutions du Mois d'Août,* 1747. 6. *Traité des Curés primitifs.*

The first volume contains a biographical account of M. Furgole, and a preface by him. Each volume has an index of chapters and summaries to the sections, &c., and some of the treatises have analytical indexes.

Vols. I.—IV. 1. TRAITÉ DES TESTAMENS, &c.—A Treatise on Wills, &c. This treatise is divided into fourteen chapters, which are subdivided into sections.

Chap. 1. Of the origin of wills, &c.; 2. Of their definition, division, &c.; 3. Of the requisites for their validity, and of the witnesses, &c.; 4. Who may make a will; 5. How wills may be annulled, &c.; 6. Who may not receive under wills, &c.; 7, 8. What the testator may dispose of, and what restrictions he may impose by will, and of the intrinsic formalities of wills; 9. Of renunciations, &c.; 10. Of the revocation of wills, &c.; 11. Of codicils; 12. Of the *clause codicillaire;* 13. Of donations *mortis causâ.*

Vol. V.—2. TRAITÉ DE LA SEIGNEURIE FÉODALE, &c.—A Treatise on Feudal Tenures, &c. This treatise is divided into sixteen chapters, which are subdivided into sections.

Chap. 1—7. Of the sources of feudal tenure generally; 8—12. That the lands in Guienne are allodial; and of the origin of the maxim—*nulle terre sans seigneur;* what other lands in France are allodial; of the reservation of the king's rights.

3. ORDONNANCE DE LOUIS XV. &c.—Remarks on the Ordinance of Louis XV. concerning Donations.

Vol. VI.—4. QUESTIONS REMARQUABLES, &c.—Fifty *Questions* on Donations.

Vol. VII.—5. COMMENTAIRE DE L'ORDONNANCE DE LOUIS XV. SUR LES SUBSTITUTIONS—A Commentary on Louis XV.'s Ordinance on Substitutions.

Vol. VIII.—6. TRAITÉ DES CURÉS PRIMITIFS—A Treatise on Parsons and Vicars. This treatise is divided into twenty-five chapters.

Chap. 1.—Of the origin of the word "*curé primitif*" and its definition; 2. Of perpetual curates and their origin; 3. Of the origin of parsons; 4, 5. Of the parson's qualification generally; 6. Of the union of parishes, &c.; 7. Of the creation of new curacies, &c.; 8. Of acquisitions of parish churches by monasteries, &c.; 9—12. Of collation, possession, &c.; 13—18. Of the rights and

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liabilities of the parson; 19, 20. Whether bishops are parsons or vicars of all the parishes within their diocese; 21—23. How the qualification of a *curé primitif* may be lost, &c.; 24. Of the judges competent to try matters in dispute between the vicars and perpetual curates; 25. An enumeration of grants of churches, and of the ordinances of the kings of France on the subject of this treatise.

Pothier's works.

ŒUVRES de POTHIER, contenant les Traités du Droit Français. Nouvelle Édition, mise en meilleur ordre et publiée par les soins de M. Dupin, Avocat à la Cour Royale de Paris, &c. 11 vols. 8vo. Paris, 1827.

A new edition of Pothier's works by Dupin, an eminent French advocate and a member of the Chamber of Deputies. This edition includes Pothier's posthumous works, and his commentary on the customary laws of Orleans. The first volume has a preliminary dissertation by Dupin on the author's life and works, a portrait of Pothier, a *fac-simile* of one of his letters, and a portrait of Dupin; and the eleventh volume is an analytical index to all his works and the commentary, and also a dictionary of French law terms. In addition to the treatises and the commentary on the customary laws, Pothier undertook the laborious task of digesting the Pandects of Justinian into a new order; the best edition of which is that published at Paris, in 24 vols. 8vo. 1818—23, which is accompanied by a French translation. See the Roman Law portion of this Catalogue.

Robert-Joseph Pothier, the most eminent of all the French lawyers, was born at Orleans in 1699; he practised as an advocate in his native city, and died there in 1772.

Pothier's works are arranged, in this edition, in the following order:—

Vol. I.—1. *Traité des Obligations.*

Vol. II.—2. *Traité du Contrat de Vente.* 3. *Traité des Retraits.* 4. *Traité du Contrat de Bail à Rente.*

Vol. III.—5. *Traité du Contrat de Constitution de Rente.* 6. *Traité du Contrat de Change.* 7. *Traité du Contrat de Louage.* 8. *Traité du Contrat de Société.* 9. *Traité des Cheptels.*

Vol. IV.—10. *Traités des Contrats de Bienfaisance,* namely, the *Traité du Prêt à Usage et du Précaire; Traité du Prêt de Consomption, et des Matières qui y ont Rapport* (namely, the *Traité de l'Usure,* the *Traité de quasi Contrat appelé "promutuum,"* and the *Traité de l'Action "condictio indebiti"*); *Traité du Contrat de Dépôt; Traité du Contrat de Mandat, et Traité du quasi-Contrat negotiorum gestorum.* 11. *Traité des Contrats de Louages Maritimes.* 12. *Traité du Contrat d'Assurance.* 13. *Traité du Prêt à la grosse* [*Aventure*]. 14. *Traité du Contrat du Jeu.*

Vol. V.—15. *Traité du Mariage.* 16. *Traité du Douaire.* 17. *Traité de la Garde-Noble et Bourgeoise.* 18. *Traité du Préciput Légal des Nobles.*

Vol. VI.— 19. *Traité de la Puissance du Mari.* 20. *Traité de la Communauté.* 21. *Traité des Donations entre Mari et Femme.*

Vol. VII.—22. *Traité des Successions.* 23. *Traité des Donations Testamen-*

taires. 24. *Traité des Donations entre-vifs.* 25. *Traité des Substitutions.* 26. *Traité des Propres.*

Vol. VIII.—27. *Traité des Personnes et des Choses.* 28. *Traité du Droit de Domaine de Propriété.* 29. *Traité de la Possession.* 30. *Traité de la Prescription qui resulte de la Possession.* 31. *Traité de l'Hypothèque.* 32. *Traité du Contrat de Nantissement.* 33. *Traité des Cens.* 34. *Traité des Champarts.* Pothier's works.

Vol. IX.—35. *Traité de la Procédure Civile.* 36. *Traité de la Procédure Criminelle.* 37. *Traité des Fiefs.*

Vol. X.—*Coutumes des Duché, Bailliage et Prévôté d'Orléans, et Ressort d'iceux.* The customary laws of the duchy, &c. of Orleans, with Pothier's Commentary thereon. The *Coutumes* are divided into titles, and subdivided into articles; and to every title Pothier has prefixed an introduction, each of which is, in fact, a treatise by itself.

Vol. XI. The index by M. Boudet.

Vol. I.—1. Traité des Obligations — A Treatise on Obligations. This is divided into four parts. A translation of it into English, by Mr. W. D. Evans, was published in London, 1806, 2 vols. 8vo.; the first volume comprising the work, and the second an appendix. 1. Obligations.

Part 1. Chap. 1, 2. Of the essence and effect of obligations.

Part 2. *Of the different kinds of obligations.* Chap. 1. A general exposition of the different kinds of obligations; 2. Of their first division into obligations civil and natural; 3. Of the different modifications under which obligations may be contracted; 4. Of some particular kinds of obligations considered with reference to the things which form the object of them; 5. Of penal obligations; 6. Of the accessary obligations of sureties and others who accede to the obligation of a principal debtor.

Part 3. *Of the various ways whereby obligations are extinguished, and of the different "fins de non recevoir," or prescriptions as to debts.* Chap. 1. Of actual payment, and of consignation or deposit; 2. Of novations, or substitutions of old debts and debtors for new ones; 3. Of releases of debts; 4. Of compensation or set-off; 5. Of the extinction of debts by confusion; 6. Of the extinction of obligations by the extinction of the things due, or when they cease to be susceptible of obligation, or when they are lost, so that it is not known where they are; 7. Of several other ways whereby obligations are extinguished; 8. Of *fins de non recevoir* and prescriptions in respect of debts.

Part 4. *Of the proof of obligations and their payments.* Chap. 1. Of proof or evidence by writings; 2. Of parol or testimonial evidence; 3. Of confession, presumptions, and the oaths of parties.

Vol. II.—2. Traité du Contrat de Vente—A Treatise on the Contract of Sale. This is divided into seven parts. A translation of it was made into English by Mr. L. S. Cushing, and published at Boston, in the United States of America, in 1839, 8vo. 2. Contracts of Sale.

Part 1. *Of the nature of the contract of sale, and of that which constitutes the substance of it.*

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Part 2. *Of the engagements of the seller and of the rights of action resulting therefrom.* Chap. 1—3. Of the engagements of the seller which result from the nature of the contract, from good faith, and from particular clauses of the contract; 4. Of the engagements which the seller of the property of another person contracts in favour of the owner.

Part 3. *Of the engagements of the buyer.* Sect. 1—3. Of the engagements of the buyer which result from the nature of the contract, from good faith, and from particular clauses of the contract.

Part 4. *At whose risk does the thing sold remain, during the space of time intervening between the contract and the delivery.*

Part 5. *Of the execution and rescinding of the contract.* Chap. 1. Of the execution of the contract of sale, and particularly of the tradition or delivery of the thing sold; 2. Of the rescinding of the contract of sale.

Part 6. *Of promises to sell and buy; of earnest money; and of several particular kinds of sale.* Chap. 1. Of promises to sell, promises to buy, and of earnest-money; 2. Of forced sales, of *licitations* and of judicial sales, or sales made by order of courts of justice; 3. Of sales of rights of succession or inheritance, and other rights attached to the person of the seller; 4. Of the sale of annuities and other credits.

Part 7. *Of acts and contracts resembling the contract of sale.* This part (in eight articles) treats of gifts in payment—remunerative donations—burthensome donations—donations upon life annuities—contracts of exchange—divisions or partitions—*licitations*—and compromises (*transactions.*)

3. *Retraits.*

3. TRAITÉ DES RETRAITS—A Treatise on the Right of Re-purchasing or Redeeming. This work, which is divided into two parts, treats of the three different kinds of *retrait*,—the one lineal, that is, the right accruing to the parents of the seller; another being that which accrues to the lord of the fee; and the third being that which arises from express stipulation in the contract of sale.

4. Leases.

4. TRAITÉ DU CONTRAT DE BAIL À RENTE—A Treatise on the Contract of Leasing. It is divided into six chapters, which treat of the nature of the contract; of what constitutes it; of the obligations resulting therefrom; of the rights of creditors in respect of the same; and of the rescinding of the contract.

5. Annuities.

Vol. III.—5. TRAITÉ DU CONTRAT DE CONSTITUTION DE RENTE—A Treatise on Purchases of Annuities. It is divided into eight chapters, which treat of the nature of the contract; of the regulations in respect thereof; who may grant annuities; various matters concerning such grants; how annuities are extinguished; of annuities for life.

6. Bills of Exchange.

6. TRAITÉ DU CONTRAT DE CHANGE—A Treatise on Bills of Exchange, divided into two parts.

Part 1. *Of bills of exchange and their negociation.* This part (in six chapters) treats of the origin of bills of exchange, &c.; of the necessary parties to them, and other requisites; of that which constitutes their essence, and of their formalities; of the different contracts

arising out of bills of exchange; of their negociation, including acceptance, protest, notice, &c.; how bills of exchange are liquidated, &c.; and of prescription with regard to them.

Part 2. *Of promissory notes, &c.* in three articles.

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7. Hiring or Leasing.

7. Traité du Contrat de Louage—A Treatise on the Contract of Hiring or Leasing. This treatise is divided into seven parts, and has an Appendix, which treats of several kinds of contracts resembling the contract of hiring.

Part 1. *What the contract of hiring or leasing is; its nature, and what constitutes its substance* (in three chapters).

Part 2. *Of the engagements of the owner of the property* (in three chapters).

Part 3. *Of the engagements of the hirer or tenant* (in two chapters).

Part 4. *Of the execution of this contract, and of the rights of the owner and hirer or tenant, arising from the contract* (in two chapters.

Part 5. *Of the rescinding of farming leases, &c.* (in two sections).

Part 6. *Of the tacit or implied renewal of the hiring or leasing; of several other particular kinds of contracts of hiring of things; of promises to hire, and of earnest money* (in three sections).

Part 7. *Of contracts for work to be done.* This part (in four chapters) treats of the nature of this contract, and of the requisites for its formation; of the obligations of the contracting parties; at whose risk the work remains before it is returned or finished; and of the rescinding of this contract.

8. Partnership.

8. Traité du Contrat de Société—A Treatise on Partnership. This treatise is divided into nine chapters, and has two Appendices, which treat of the *quasi* contract of community of property and of party-walls, landmarks, &c.

Chap. 1, 2. Of the nature and different kinds of partnerships; 3. Of the different clauses in partnership deeds; 4—7. Who may enter into partnership; the forms requisite in partnership deeds, &c.; the rights, debts and obligations of the partners; 8, 9. Of the dissolution of the partnership, and its effects.

9. *Cheptel* Contracts.

9. Traité des Cheptels—A Treatise on *Cheptel* Contracts or Leases. *Cheptel* contracts are still in use in France, as may be seen by the *Code Civil*, book iii. tit. 8, c. 4.

This treatise is divided into two sections, the first of which treats of simple *cheptels*, and the second of other kinds of *cheptels*.

10. Contracts of Beneficence.

Vol. IV.—10. Traités des Contrats de Bienfaisance—Treatises on Contracts of Beneficence. These include—

i. *Traité du Prêt à Usage et du Précaire*—A Treatise on Loans for Use (*précaire* means also a loan for use, but on condition that the thing lent be returned immediately on demand, and without any time being specified for the loan). This work (in four chapters) treats of the nature of the loan, of the person who may contract it, &c. and what may be thus lent; of the rights and obligations of the borrower and the lender. [This sort of loan is still in use in France.]

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ii. *Traité du Contrat du Prêt de Consomption, et des matières qui y ont Rapport*—A Treatise on Loans for Consumption. This treatise includes three others, namely, a *Traité de l'Usure, &c.;* a *Traité du quasi-Contrat appelé "Promutuum;"* and a *Traité de l'Action "Condictio indebiti."* The treatise on loans for consumption is divided into two chapters, which treat of the nature of the contract, what may be the subject of it, and the liabilities resulting from it.

(a) *Traité de l'Usure.* This treats (in five sections) of usury, its illegality; of lawful interest and discount.

(b) *Traité du quasi-Contrat, &c.* This treats (in one section) of the nature of the *promutuum*, its relation to the *mutuum*, and the obligations arising from it.

(c) *Traité de l'Action, &c.* This treats (in one section) of the action called *condictio indebiti;* of those who can maintain it, and against whom it lies, &c.

iii. *Traité du Contrat de Dépôt*—A Treatise on Deposits. It is divided into four chapters, which treat of the nature of the contract, the obligations and actions resulting from it; of several other kinds of deposits; of sequestrations and of judicial deposits.

iv. *Traité du Contrat de Mandat*—A Treatise on Commissions, &c. It is divided into five chapters, which treat of the nature of the contract, its essence and form; of the mutual obligations of the parties; of the extinction of the power; and of several other kinds of commissions, &c.

v. *Traité du quasi-Contrat "Negotiorum gestorum"*—A Treatise on the Contract termed in the Roman Law *Negotiorum gestorum.* This work is divided into two sections, which treat of the things requisite for the forming of this *quasi* contract, and of the obligations and rights of action resulting therefrom.

11. Maritime Hiring, &c.

11. TRAITÉ DES CONTRATS DE LOUAGES MARITIMES—A Treatise on Maritime Hiring, &c. It is divided into three parts: the first contains a *Traité du Contrat de Charte-partie, &c.;* the second a *Traité des Avaries;* and the third a *Traité du Louage des Matelots et autres Gens de Mer.*

i. *Traité du Contrat de Charte-partie*—A Treatise on Charter-party. It treats (in five sections) of the substance and form of the contract, of the rights and obligations of the parties contracting, and of the rescinding of the contract, &c.

ii. *Traité des Avaries*—A Treatise on Averages, in two sections. The first section treats of jettison, or throwing goods overboard, and of the general contribution on that account; the second treats of other modes of contribution.

iii. *Traité du Louage des Matelots, &c.*—A Treatise on the Hiring of Sailors, &c. This treats (in two sections) of the parties to the contract, its form, and the obligations of the sailors and the master.

12. Insurance.

12. TRAITÉ DU CONTRAT D'ASSURANCE — A Treatise on Insurance (chiefly maritime). It treats (in three chapters) of the nature and essence of the contract; of the parties to, and the form of the contract; of the obligations of the parties to the contract, and the actions resulting therefrom.

13. TRAITÉ DU PRET À LA GROSSE—A Treatise on Bottomry, &c. It treats (in four articles) of the nature and essence of the contract; of the obligations, conditions and actions incidental to or arising from it. 13. Bottomry.

14. TRAITÉ DU CONTRAT DU JEU.—A Treatise on Playing or Gaming, divided into three chapters. 14. Gambling, &c.

Chap. 1. Whether gaming is immoral (*mauvais*) according to the laws of nature; 2. The Roman and French laws on the subject noticed; 3. Whether gambling induces any obligation; and whether any one is obliged to refund to the loser what he has won at play.

Vol. V.—15. TRAITÉ DU CONTRAT DE MARIAGE—A Treatise on the Contract of Marriage. It is divided into seven parts. 15. Marriage Contracts.

Part 1 (in three chapters) treats of the nature of the contract; of the different kinds of marriage in use among the Romans, and by what laws marriage is governed.

Part 2 (in two chapters) treats of those things which usually precede marriage, as betrothment and banns.

Part 3 (in four chapters) treats of those persons who may contract marriage, and of impediments to marriage, and dispensations.

Part 4 (in three chapters) treats of the form of the marriage contract; and of registries of marriages, &c.

Part 5. Of the obligations which result from marriages, and of the civil effects produced thereby.

Part 6 (in three chapters) treats of the annulling of marriages; of their dissolution by divorce, entering into a religious order, &c.; and of separation from bed and board.

Part 7 (in three chapters) treats of second marriages, of the edict on second marriages (dated July 1560), and of the penalties inflicted by the ordinance of Blois on widows who contract marriages with persons of inferior rank.

16. TRAITÉ DU DOUAIRE—A Treatise on Dowry and on the Provision for Children, in seven parts. There is an appendix concerning the right of the widow to inhabit one of her husband's houses, &c. called the *droit d'habitation*. 16. Dower.

Part 1. *Of the dowry of women.* Chap. 1. Of the origin of dower, and what women ought to be endowed; 2. In what dower consists; 3. When and how the obligation of dower is contracted, when it is opened, and how the widow is seised of it; 4. Of the actions to which the opening of the dower gives rise; 5, 6. Of the right of usufruct in the widow; 7. Of the right of entry of the heir into the lands subject to the dower, &c.

Part 2. *Of the provision for, or endowment of children.* This part (in five chapters) treats of the nature of this endowment; when and how the obligation of this endowment is contracted, &c.; of the actions resulting from it; what children are entitled to it, and how it is divided, &c.

Du Droit d'habitation—On the widow's right of habitation (in two sections). Sect. 1. Of the right according to the *coutumes;* 2. Of the right by previous agreement.

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17. *Garde-Noble, &c.*

17. TRAITÉ DE LA GARDE-NOBLE ET BOURGEOISE—A Treatise on the Wardship of Nobles and Citizens or Commoners. There is a preliminary article, in which a definition is given of this peculiar kind of wardship, and its origin is shown.

The treatise is divided into five sections, which treat of—Who may be guardians, and of whom; of the acceptance and repudiation of the wardship; of the rights incidental to wardship; how wardship ends; as to whether the rules of the *coutumes* in respect of the wardship of nobles are statutes personal or real. This work is posthumous.

18. *Préciput.*

18. TRAITÉ DU PRÉCIPUT LÉGAL DES NOBLES—A Treatise on the Right (incident to Nobles) called *Préciput*. Pothier's treatise on this subject seems to confine the right to a particular class, whereas Ferrière, in his Dictionary of French Law, defines it to be the right of the eldest son of a deceased noble to an extra portion of the estate, previously to any partition being made, and also to the choice of the chief mansion, &c., and of a field to "fly a pigeon in." See Ferrière's *Dictionnaire*, article "*Préciput*."

This treatise (in three articles) treats of the persons entitled to the right; of the things subject to the right; and of the charges or liabilities incident thereto. This is a posthumous publication.

19. Husband's Authority.

Vol. VI.—19. TRAITÉ DE LA PUISSANCE DU MARI—A Treatise on the Authority of the Husband. It is divided into two parts; the first of which treats of the power of the husband over his wife's person; and the second, of his power over her property.

Part 1. Section 1. Of the necessity for the husband to give an authority to the wife to act; on what it is founded; when she begins to need it; and how it may be supplied; 2. What wives need such authority from the husband, and what husbands can authorize their wives; 3. When the husband's authority is unnecessary, &c.; 4. When the authority of the husband ought to be interposed; 5. Of the effect of the authority and of the want of it.

Part 2, among other things, treats of the wife's paraphernalia.

20. Community of Property (Husband and Wife).

20. TRAITÉ DE LA COMMUNAUTÉ—A Treatise on the Community of Property between Husband and Wife. It is divided into seven parts. There is an introduction, divided into three paragraphs, which treat of what agreements persons may make on their marriage, how and when they may make them, and what are the characteristics thereof; and also of the domicile of the parties at the time of marriage, &c.

Part 1. *Of the persons between whom a community may be established; of the time when it begins; and of its composition, both active and passive.* Chap. 1, 2. Of the persons who may establish the community, and of its composition; 3. Of conventional communities.

Part 2. *Of the right of the parties over the property in common.* This part is divided into three axioms, with their corollaries.

Part 3. *Of the dissolution of the community; of the acceptance by the wife or her heirs, and of their renouncing of the community.* Chap. 1, 2. How the community is dissolved, and of its acceptance and renunciation.

Part 4. *Of the liquidation and partition to be made, after the dissolution of the community.* Chap. 1. Of the different credits and debts of

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each of the married couple against the common property; 2. Of the division of the common property after the dissolution; and of the preliminary acts, including the inventory and the valuation of the property, &c.

Part 5. *How the husband and wife and their heirs are bound to pay the debts (in respect of their share) of the common property, after the dissolution.*

Part 6. *Of the continuation of the community.* Chap. 1. Of the continuation of the community as between the husband and wife (simple community); 2. Of the continuation of the same, when the husband or wife marries again and establishes a community of property, confounding the two communities (*communité composée*).

21. Gifts (Husband and Wife).

21. TRAITÉ DES DONATIONS ENTRE MARI ET FEMME—A Treatise on Donations between Husband and Wife, to which is added an explanation of the 68th article of the *coutume* of Dunois on the same subject. This treatise is divided into three parts; and there is a preliminary chapter, divided into three articles, which treat of the variety of the laws of France on the subject of gifts between husband and wife; of the nature of the municipal laws on the same subject; and whether the parties can, by their marriage contract, set aside the laws concerning the same.

Part 1 (in two chapters) treats of the donations, both direct and indirect, which are forbidden by the customary laws of Paris, and other customary laws, as between husband and wife.

Part 2. *Of the mutual gifts which are allowed by the* coutumes *of Paris and other places, between husband and wife that have no children.* Chap. 1. Of the nature and characteristics of mutual gifts; 2. Between what persons they are allowed by the *coutumes*, &c.; 3, 4. Of the form and conditions of mutual gifts; 5—7. Of the opening of the mutual gift—of the right of usufruct therein—of the liabilities as to mutual gifts—and of the extinguishment of the usufruct of the mutual donee, and of restitution after the extinguishment of the usufruct.

Part 3. *Of another kind of mutual gifts allowed by the customary laws of Paris, to be made by husband and wife during the marriage.* This part (in seven articles) treats of the agreement of these mutual gifts with the 280th article [of the *coutume* of Paris], by what acts and in what cases the agreement mentioned or allowed by the 281st article [of the same *coutume*] may be made, and of the meaning and effect of certain clauses, &c. in the same article (281).

22. Successions.

Vol. VII.—22. TRAITÉ DES SUCCESSIONS—A Treatise on Successions or Inheritances, divided into six chapters.

Chap. 1. Of the persons who are capable of transmitting their inheritance, and of those that are capable of inheriting or succeeding; 2. Of the order of succession; 3. Of the opening of the succession, and of the acceptance or refusal of the same; of the rule "*le mort saisit le vif*," and of the election of the heir, &c.; 4. Of the division of the inheritance, &c.; 5. Of the debts and other incumbrances of the inheritance; 6. Of irregular successions.

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23. Gifts by Will.

23. TRAITÉ DES DONATIONS TESTAMENTAIRES—A Treatise on Testamentary Donations (that is, devises and bequests), divided into seven chapters. It is a posthumous work.

Chap. 1. Of the forms of wills or testaments; 2. Of the different dispositions contained in wills, and of the defects, &c. which may be found in wills, and which may annul them; 3. Of those persons who may or may not make wills; of those who are capable or not of taking under wills; and of those persons who may be charged (by will) with legacies and trusts; 4. Of those things which may or may not be bequeathed, and how much of his property a testator may dispose of by will; 5. Of the execution of wills, of the payment, &c. of the legacies, and of the rights of action accruing to the legatees; 6. Of the revocation or extinction, &c. of legacies, and of the right of survivorship; 7. Of the rules for the construction of wills with regard to legacies.

24. Gifts *inter vivos*.

24. TRAITÉ DES DONATIONS ENTRE-VIFS—A Treatise on Donations *inter vivos* (that is, all kinds of gratuitous gifts other than those by will.) This work (in three sections) treats of the persons who may give and receive, and of the things which may be given; of the formalities required by law in respect of them; of the effect of such donations, and how they may be revoked, &c. It is a posthumous work.

25. Substitutions.

25. TRAITÉ DES SUBSTITUTIONS—A Treatise on Substitutions. This treatise is divided into seven sections. It is a posthumous work.

Sect. 1. How fiduciary substitutions may be made, their different kinds, and the formalities required in respect of them; 2, 3. Of the words made use of for the creating of substitutions, and of the general rules for their construction; 4. Of those who may make substitutions, who may be substituted, and what things may be the subject-matter of such substitutions; 5. Of the effect of substitutions previously to their being opened, and of the obligations incidental thereto; 6. Of the opening of substitutions and the effect thereof, and the rights of action resulting therefrom; 7. How substitutions are extinguished.

26. *Propres*.

26. TRAITÉ DES PROPRES—A Treatise on Property coming to persons by descent. This treatise is divided into three sections. It is a posthumous work.

Sect. 1. Of real *propres;* 2. Of fictitious or substituted *propres*, &c.; 3. Of the fictitious *propres* created by the 94th article of the customary laws of Paris and the 351st of those of Orleans.

27. Persons and Things.

Vol. VIII.—27. TRAITÉ DES PERSONNES ET DES CHOSES—A Treatise on Persons and Things. It is divided into two parts, the first of which treats of persons, and the second of things. It is a posthumous work.

Part 1. Title 1. The division of persons into ecclesiastics, nobles, persons of the third estate or commoners, and serfs; 2. Second division of persons into natives and foreigners; 3. Division of persons into those who are civilly dead, and those who have recovered their former estate; 4. Division of persons into legitimate and bastards; 5. Division of persons in respect of sex, &c.; 6. Division of persons

in respect of the power exercised by them over others, and by others over them; 7. Of corporations, &c.

Part 2. *Of Things.* Paragraph 1. Of the division of corporeal things into moveable and immoveable; 2. Of the division of incorporeal things into moveable and immoveable; 3. Of those things that have a locality, and of those that have none.

28. Property. 28. TRAITÉ DU DROIT DE DOMAINE DE PROPRIÉTÉ—A Treatise on the Right of Dominion or Ownership of Property, divided into two parts, and subdivided into chapters, &c.

Part 1. Chap. 1. What the right of ownership is, and in what it consists; 2. How the dominion or ownership is acquired and lost.

Part 2. Chap. 1. Of claims to property, or possessory actions; 2. Of real actions.

29. Possession. 29. TRAITÉ DE LA POSSESSION—A Treatise on Possession, divided into chapters, &c.

Chap. 1. Of the nature of possession, its different kinds and defects, &c.; 2. Whether the right and quality of a person's possession can be changed [without some act]; 3. What things are susceptible or not of possession, and of *quasi* possession; 4. How possession is acquired and retained, and of those persons through whom a person can acquire and retain it; 5. How possession is lost; 6. Of the rights resulting from possession, and of possessory actions.

30. Prescription. 30. TRAITÉ DE LA PRESCRIPTION QUI RÉSULTE DE LA POSSESSION—A Treatise on Prescription arising out of Possession. This treatise is divided into two parts, the first of which treats of prescription of ten or twenty years, and the second, of other prescriptions.

Part 1. *Of the prescription of ten or twenty years which gives a title by possession.* Chap. 1. Of the things that are susceptible of prescription of ten and twenty years; for whom and against whom such prescription runs; 2. Of the nature of the possession in respect of prescription; 3. Of the requisite title in regard to prescription; 4. Of the time of the prescription, and of the union of the time of possession of the successor with that of the predecessor; 5. Of the effect of prescription of ten and twenty years.

Part 2. *Of other kinds of prescription which give a title by possession.* Art. 1. Of prescription of thirty years; 2. Of prescription of forty years against the church and corporations, &c.; 3. Of prescription for acquiring corporeal moveables; 4. Of the holding for five years, which takes place in some *coutumes;* 5. What law governs in respect of prescriptions, &c. 6. Of some special prescriptions by particular *coutumes;* 7. Of other special prescriptions; 8. Of possession of 100 years, or immemorial possession.

31. Mortgages. 31. TRAITÉ DE L'HYPOTHÈQUE—A Treatise on Mortgages, divided into chapters, &c. There is a preliminary article, treating of the nature of mortgages, and their different kinds. This is a posthumous work.

Chap. 1. Of the creation of the mortgage; 2. Of the effects of the mortgage, and of the actions resulting therefrom; 3. How the mortgage is extinguished; 4. Of the mortgage security called *nantissement;*

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5. Of the *antichresis* and the *contrat pignoratif*—mortgages whereby the creditor or other person remains in possession of the property till out of the income his debt is paid, &c.

Pothier's works.

32. *Nantissement.*

32. TRAITÉ DU CONTRAT DE NANTISSEMENT—A Treatise on the Mortgage Security called *Nantissement*, divided into chapters.

Chap. 1. Of the essence and formalities of the contract; 2. Of the right acquired by the creditor of things given in such pledges or securities; and of the *actio pignoratitia directa*; 3. Of the obligations of the party giving such security, &c.

33. *Cens.*

33. TRAITÉ DES CENS—A Treatise on Quit-rents, &c. divided into sections. It is a posthumous work.

Sect. 1. Of the *cens*, and of fines for default of payment of the same; 2. Of fines for alienation, &c.; 3. Of the lord's right of action in respect of such alienations, &c.; 4. Of the lord's other rights of action in respect thereof; 5. Of some particular kinds of *censives* in the *coutume* of Orleans.

34. *Champarts.*

34. TRAITÉ DES CHAMPARTS—A Treatise on peculiar Dues or Rents so called, which were payable in kind. The treatise is divided into two articles. It is a posthumous work.

Art. 1. Of the nature of the right of *champart*, and out of what lands it is payable; 2. Of the obligations of holders of lands subject to *champart*, and of the rights, &c. of the *seigneurs*.

35. Civil Process.

Vol. IX.—35. TRAITÉ DE LA PROCÉDURE CIVILE—A Treatise on Civil Process, divided into five parts, and subdivided into chapters. This work is posthumous.

Part 1. *Of ordinary process from the demand to the definitive judgment.* Chap. 1. How demands are to be made judicially; 2. Of the form of defence to demands; 3. Of the contestation and the *instruction;* 4. Of the interruption or abatement of the suit or proceedings, and of their revival and extinction; 5. Of the manner of proceeding to judgment.

Part 2. *Of special process in certain cases.* Chap. 1. Of special process in summary causes; 2. Of special process in matters of account; 3. Of process in possessory actions; 4. Of special process in certain jurisdictions, and in arbitrations.

Part 3. *Of appeals from sentences, &c.* Sect. 1. Of appeals; 2. Of oppositions to judgments; 3. Of extraordinary ways of appealing; 4. Of actions against judges.

Part 4. *Of the execution of judgments.* Chap. 1. Of the different proceedings in respect of executions of judgments; 2. Of the manner of compelling the party condemned to execute the judgment. Two appendices on seizures.

Part 5. Chap. 1. Of personal arrest; 2. Of the benefit of surrenders of property; 3. Of the time allowed to debtors to pay their debts; 4. Of demurrers, &c.; 5. Of affixing the seals; 6. Of the *faux incident.*

36. Criminal Process.

36. TRAITÉ DE LA PROCÉDURE CRIMINELLE—A Treatise on Criminal Process, divided into seven sections. This work is posthumous.

Pothier's works.

Sect. 1. By whom, at whose expense, against whom, and before what judges, criminal accusations are made; 2. Of criminal proceedings which precede the decree; 3. Of the various decrees, their execution against persons in contumacy, and of essoigns; 4. Of the *instruction* made after the decree, of the different *requêtes* which may be presented during the *instruction*, and of the definitive *conclusions* of the king's attorney, &c.; 5. Of judgments, of appeals which intervene, and of the execution of judgments; 6. Of the extinguishment and prescription of crimes, of their pardon, &c. and of the mode of clearing the memory or fame of a deceased person.

37. Fiefs.

37. Traité des Fiefs—A Treatise on Fiefs or Fees, divided into two parts, and subdivided into chapters, &c.; with a preliminary article on the division of immovable property into fiefs, *censives* and *franc-alleux*.

Part 1. Chap. 1. Of fealty, and of the time allowed to the heir to come in and swear fealty, &c.; 2. Of the seizure or temporary confiscation of the fee; 3. Of the right of confiscation of the fee; 4. Of the account to be rendered to the lord by the vassal of the property held by him, and of the seizure or temporary confiscation for default of the rendering of such account; 5. Of fines on alienations.

Part 2. Chap. 1. Of the fine of a year's income due to the lord on alienations; 2. Of the lord's right of purchasing, when the property is alienated to a stranger; 3 Of the *démembrement* and the *jeu de fief*.

In Dupin's Dissertation, prefixed to the first volume (p. ci), there is a list of Pothier's unpublished works.

Works wherein the Roman and Canon Laws are compared and contrasted with the Laws of France.

L'Interprétation des Institutes de Justinien, avec la Conférence de chasque Paragraphe aux Ordonnances Royaux, Arrestz de Parlement et Coustumes générales de la France. Ouvrage inédit d'Etienne Pasquier, Avocat-Général du Roi en la Chambre des Comptes, publié par M. le Duc Pasquier, Chancelier de France, &c. 4to. Paris, 1847.

The Interpretation of Justinian's Institutes, with the Parallel of the Royal Ordinances and Customary Laws of France, by Pasquier.

This is an inedited work by Étienne Pasquier, and published by Pasquier, Chancellor of France. There is an introduction, containing a life of Pasquier, and notes, by Giraud. The text of the Institutes is not given, but some of the titles, &c. are inserted.—See *ante*, p. 138.

La Conférence du Droict François avec le Droict Romain, Civil et Canon, &c. Par M. Bernard Automne,

COLLECTED WORKS OF AUTHORS.

Jurisconsulte et Advocat au Parlement de Bordeaux. 2 vols. fol. Paris, 1644.

The Parallel or Conference of the French and the Roman and Canon Laws, by Automne.

Bernard Automne, an advocate in the parliament of Bordeaux, was born in the Agénois in 1587, and died in 1666. He wrote, beside the present work, a Commentary on the *Coutume* of Bordeaux, a Commentary or Treatise on Imbert's *Pratique*, Commentaries on the Pandects and Code of Justinian, and some other works.

The titles of the Digest and Code are given in this work, and some of the laws of the councils are noticed; and the author adds to each the ordinances and decisions of the courts which had repealed such laws with regard to France, and notices such as were in force in his time. He also gives the opinions of the most eminent French lawyers on the various subjects treated on in the work, &c. There is a dedication and an *avertissement;* the last volume contains some letters of Automne. This is the fourth edition of the work.

D'Espeisses' works.

Les Œuvres de M. Antoine D'Espeisses, Advocat et Jurisconsulte de Montpellier. Ou toutes les plus importantes matieres du Droit Romain sont methodiquement expliquées et accommodées au Droit François; confirmées par les Arrests des Cours Souveraines, et enrichies des plus utiles Doctrines des Autheurs anciens et modernes. Mises au jour pour la premiere fois; excepté le Traicté des Successions, et celuy des Tailles, augmentez de moytié. 3 vols. fol. Lyons, 1660.

The works of D'Espeisses (or Despeisses, as the name is generally spelt), in which the most important subjects of the Roman law are methodically explained, and accommodated to the laws of France.

Antoine Despeisses, an eminent lawyer, and an advocate in the parliament of Paris, and afterwards at Montpellier, was born in 1594, and died in 1658.

The titles of the works comprised in these volumes are as follows:—1. *Traicté des Contracts.* 2. *Traicté des Successions testamentaires, et abintestat.* 3. *La Practique Civile, ou Traicté de l'Ordre judiciaire observé ez Causes Civiles.* 4. *La Practique Criminelle, ou Traicté des Crimes, et de l'Ordre judiciaire observé ez Causes Criminelles.* 5. *Traicté des Droicts Seigneuriaux.* 6. *Traicté des Tailles, et autres Impositions.* 7. *Traicté des Benefices Ecclesiastiques.*

These different works are divided into parts, titles, &c. The first volume contains a dedication and an *avertissement;* and the last, an excellent analytical index of subjects.

Vol. I.—1. Traicté des Contracts—A Treatise on Contracts.

Part 1. *Of the different kinds of contracts.* Title 1. Of purchase; 2. Of hiring or leasing; 3. Of community of property or partner-

ship; 4. Of powers of attorney or commissions (*mandemens*); 5. Of the lending called *mutuum;* 6. Of deposits; 7. Of the lending called *commodatum;* 8. Of the lending called *précaire;* 9. Of pledges; 10. Of wagers; 11. Of miscellaneous contracts; 12. Of exchange; 13. Of marriage; 14. Of donations; 15. Of jointures or settlements; 16. Of guardians (*tuteurs et curateurs*).

Part 2. *Of matters incidental to contracts.* Title 1. Of servitudes; 2. Of bail or security; 3. Of mortgages; 4. Of joint purchasers, &c.

Part 3. *Of executions, &c. for the non-fulfilment of contracts.* Titles 1, 2. Of the imprisonment of the debtor, and of execution on his property.

Part 4. *Of the ways whereby contracts are dissolved.* Title 1. Of payment; 2. Of the *consignation* of the debt, &c.; 3. Of compensation; 4. Of prescription; 5. Of novation; 6. Of delegation; 7. Of confusion; 8. Of the pact or agreement not to ask for the debt; 9. When the creditor has become the owner of the thing due to him; 10. Of the loss of the thing which is owing; 11. Of *restitutions en entier.*

Vol. II.—2. Traicté des Successions, &c.—A Treatise on Successions by Testament and *ab intestato.*

Part 1. *Of testamentary successions.* Title 1. Of wills; 2. Of substitutions; 3. Of legacies; 4. Of the *légitime;* 5, 6. Of the Trebellianic and Falcidian portions. [The Trebellianic portion is the fourth part of the inheritance, which the heir may retain against a universal or a partial trust of the inheritance. The Falcidian portion is the fourth part of the inheritance, which the heir may retain against legatees and trusts of a particular portion of the inheritance. These two portions are derived from the Roman law and were only known in the *pays de droit écrit.*]

Part 2. Title 1. Of successions *ab intestato.*

Part 3. Title 1. Of the rights and obligations of heirs, both testamentary and *ab intestato.*

3. La Practique Civile, &c.—A Treatise on Proceedings in Civil Causes, divided into twelve titles.

Title 1. Of summonses; 2. Of defaults; 3, 4. Of the competency of the judges, and of exceptions to them; 5. Of the *communication des pièces, &c.;* 6. Of exceptions; 7. Of the oath of calumny; 8. Of the revival of suits; 9. Of nonsuits; 10. Of proofs or evidence; 11. Of judgment and execution; 12. Of appeals.

4. La Practique Criminelle, &c.—A Treatise on Proceedings in Criminal Causes, divided into three parts.

Part 1. *Of criminal process against one or more persons.* Title 1. Who may be accusers; 2. Who may be accused; 3. Of the judges who may take cognizance of crimes; 4. Of informations; 5. Of summonses and arrests; 6. Of interrogatories; 7. Of ordinary and extraordinary process; 8. Of the *récollement* (reading over their evidence to the witnesses), and confronting of the witnesses; 9. Of process against defaulters and contumacious persons; 10. Of torture;

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D'Espeisses' works.

11. Of the acquittal of the accused; 12. Of the condemnation of the accused, with an enumeration of crimes; 13. Of pardons, &c.

Part 2. *Of criminal proceedings against corporations, &c.*

Part 3. *Of criminal proceedings against the body of a suicide.*

Vol. III.—5. Traicté des Droicts Seigneuriaux—A Treatise on Seigneurial Rights, &c., divided into six titles.

Title 1. An explanation of the term *seigneur*; 2. What land is called feudal, what *censier*, emphyteutic or *roturier*, and what allodial or *franc-alleu*; 3. Of fiefs; 4. Of censual or emphyteutic contracts; 5. Of the judicial authority of the *seigneurs*; 6. Of the various services, &c. due to the *seigneurs*.

6. Traicté des Tailles, &c.—A Treatise on Taxes, in four titles.

Title 1. By what authority taxes may be raised, &c.; 2. Of their various kinds; 3. Of the registry of lands subject to taxes, &c.; 4. Of the collectors.

7. Traicté des Benefices Ecclesiastiques—A Treatise on Benefices.

Title 1. Who may appoint to benefices; 2. Within what time the appointment should be made; 3, 4. Who may be appointed to benefices, &c.; 5. What benefices may be conferred; 6. Of plurality of benefices; 7, 8. Whether pensions may be reserved out of benefices, &c.; 9, 10. Of the duties, &c. of the incumbents of the benefices; 11. How the incumbent may be deprived of his benefice.

A new edition of Despeisses' works was published at Lyons, in 3 vols. fol. 1750, by Gui du Rousseau de la Combe.

La Jurisprudence du Digeste, conférée avec les Ordonnances Royaux, les Coutumes de France, et les Décisions des Cours Souveraines, où toutes sortes de matières du Droit Romain, et du Droit Coutumier, sont traitées suivant l'usage des Provinces de Droit écrit et de la France Coutumière, &c. Par M. Claude de Ferrière, Avocat en Parlement, Docteur et Professeur en Droit. 2 vols. 4to. Paris, 1677.

The Parallel or Conference of the Digest and Laws, &c. of France. Throughout every article references are made to the Institutes, Code, and *Novellæ* of Justinian.

Claude de Ferrière, an advocate in the parliament of Paris, and a doctor and professor of laws, was born in 1639, and died at Reims, on the 11th May, 1715. He translated Justinian's Institutes.

La Jurisprudence du Code Justinien, conférée avec les Ordonnances Royaux, les Coutumes de France, et les Décisions des Cours Souveraines, &c. Par M. Claude de Ferrière, Avocat au Parlement. 2 vols. 4to. Paris, 1684.

The Conference of Justinian's Code (ten books only), with the Laws, &c. of France. The arrangement of this work is the same as that of the preceding. There is a preface and three indices.

COLLECTED WORKS OF AUTHORS.

LA JURISPRUDENCE DES NOUVELLES DE JUSTINIEN, conférée avec les Ordonnances Royaux, les Coutumes de France, et les Décisions des Cours Souveraines, &c. Par M. Claude de Ferrière, Avocat au Parlement. 2 vols. 4to. Paris, 1688.

The Conference of Justinian's *Novellæ* with the Laws, &c. of France. The arrangement of the work is the same as the two preceding. There are indices.

There are several other works on the subject of the six preceding articles, for which see the second volume of the *Profession d'Avocat*, pp. 322—325.

8. TREATISES.

The compiler has to observe, that there are many among the following treatises which he has not had the opportunity of examining personally; and that consequently in such cases he has not been able to give a detailed account of them, and in some instances has given merely the titles of the works. He has introduced among the treatises several collections of laws, decisions of the courts, &c. bearing on the various subjects. Full information on any of the subjects of the treatises will be found (in a digested form) in the following works:—*Encyclopédie Méthodique*, &c. (division JURISPRUDENCE); Merlin's edition of Guyot's *Répertoire*, (wherein the reader will find both the ancient and the modern law on the subjects); Dénisart's *Collection de Décisions*, &c.; Ferrière's *Dictionnaire de Droit*, &c.; and Expilly's *Dictionnaire Géographique*, &c.; all which works are noticed in this part of the Catalogue. For other treatises on the various subjects here enumerated, the reader is referred to the first, second and third volumes of Lelong's *Bibliothèque de la France*, edited by Fontette; to the *Catalogue des Livres imprimés du Roi* (in two volumes, division JURISPRUDENCE), and to the second volume of the *Lettres sur la Profession d'Avocat*, edit. 1832. These works are also noticed in this part of the Catalogue.

The compiler has thought it convenient to prefix to several of the treatises a short explanation of the subject, which (he thinks) will prove not only useful, but will save the trouble of referring to Digests, &c.

ACQUÊTS.

The term *acquêts* meant, in the *pays coutumiers*, real or immoveable property acquired, in contradistinction to the word *propres*. Immoveable property acquired by the husband or wife during the community of property between them was called *conquêts*. The most important distinction between *acquêts* and *propres* consisted in the power of disposition over them. A testator might dispose of all his *acquêts;* but he could dispose only of a portion of his *propres*, namely, a *fifth*, according to the customary laws of Paris and those of several other places and provinces. See "CONQUÊTS" and "PROPRES," *infra;* and also the works of Renusson, *ante*, p. 154; and of Pothier, No. 26; *ante*, p. 168.

ACQUÊTS (NOUVEAUX).—See NOUVEAUX ACQUÊTS.

ACTIONS.

TRAITÉ DES ACTIONS, suivant les principes du Droit François et du Droit Coutumier de la Province de Normandie, pour le

TREATISES.

For de la Conscience; par l'Auteur de l'État des Personnes (M. le Cocq). 12mo. Paris, 1777.

A Treatise on Actions, according to the principles of the laws of France, &c., by Le Cocq.

Administration of Justice.

Justice was administered in France, previously to the revolution in 1789, by a variety of courts and tribunals, a particular account of the origin, composition, and competency of the principal of which will be found *infra*, under the headings, "Courts of Law" and "Parliaments."—See also *infra*, the headings "Jurisdiction" and "Offices."

Adoption.

Adoptions appear to have been unknown in France previously to the revolution, except (according to Le Brun in his Treatise on Successions, book 3, chap. 3) in the provinces of Saintonge, Berry, Bourbonnois, and Nivernois.—See Guyot's *Répertoire, &c.*, edited by Merlin; and Denisart's *Collection de Decisions, &c.*, article *Adoption*.

The compiler has not met with a separate treatise on this subject.

Advocates.

These were generally considered as of two kinds, namely, those who pleaded in court, and were called *avocats plaidans;* and those who gave opinions on cases, &c., and were called *avocats consultans*, or jurisconsults.

It may not be improper to notice here, that the terms so often already met with in this Catalogue, of *avocat* au *parlement* and *avocat* en *parlement*, have the following significations:—The former means an advocate who is admitted to practise in the parliament in question, and does actually practise therein; the latter means that the advocate is admitted to practise in the parliament, but does not actually practise therein. It is probable that this distinction in the terms was not always accurately observed.

Histoire des Avocats, au Parlement et au Barreau de Paris, depuis Saint Louis jusqu'au 15e Octobre, 1790, par Fournel. 2 vols. 8vo. Paris, 1813.

A most interesting account of the advocates in the parliament of Paris, and of the bar of Paris generally. The work has several lists of advocates at particular periods, with accounts of their works, lists of chancellors, attorneys-general, &c. The work is divided into six books, each of which embraces a certain period of time, and begins at the reign of Louis the Ninth. There is a copious index.

Jean-François Fournel, formerly an advocate in the parliament of Paris, and *bâtonnier* of the order of advocates in 1817, was born about the middle of the eighteenth century, and died in 1820. He composed other works, some of which will be found noticed in this part, and also in the modern part of this division of the Catalogue.

LETTRES SUR LA PROFESSION D'AVOCAT; et Bibliothèque Choisie de Livres de Droit, qu'il est le plus utile d'acquérir et de connaître; par M. Camus, Ancien Avocat. 2 vols. 8vo. Paris, 1832.

This is a new edition of Camus's Letters on the Profession of an Advocate. The general title to the work in this edition is *Profession d'Avocat;* but the compiler has thought proper to retain the original title.

Armand-Gaston Camus, an advocate in the parliament of Paris, was born in 1740, and died in 1805. He composed other works besides the present.

The first volume of this work contains—1. *Histoire Abrégée de l'Ordre des Avocats, par M. Boucher d'Argis*, in twenty-two chapters, including an appendix. 2. A reprint of the *Dialogue des Avocats du Parlement de Paris* (see *ante*, p. 140), with an appendix. 3. Several essays, &c., under the heading "*Études Nécessaires à l'exercise de la Profession d'Avocat.*" Among these essays, &c., are seven letters by Camus on the Study of the Law, &c. 4. *Discipline du Barreau, &c.* This consists of various decrees and ordinances, &c. concerning the bar. 5. Several decisions and other matters concerning the discipline of the bar and advocates generally. There is a dedication and a preface.

The second volume consists of a catalogue of law books of all nations, divided into ten titles, and subdivided into parts, sections, paragraphs, articles, &c. There is an index of the names of authors; another of the titles of books, without the names of the authors; and a third of subjects.

Title 1 treats of bibliography and biography; 2. Of the origin and principles of laws; 3. Of the laws of nature, international law, the public law of nations, and political economy; 4. Of civil and criminal law generally; 5. Of the laws of the nations of antiquity (excluding the Romans); 6. Of the Roman laws; 7. Of the ancient French laws; 8. Of the modern French laws; 9. Of the canon or ecclesiastical law; 10. Of the laws of modern nations (excluding the French).—At the end of the second volume are some very curious notices of ancient French law books, &c.

RÈGLES POUR FORMER UN AVOCAT, &c. [Par M. Biarnoy de Merville.] 12mo. Paris, 1753.

Rules for the forming of an advocate, by Biarnoy de Merville, an advocate. This is a new edition by Boucher d'Argis. The work is divided into two parts, the first of which is subdivided into chapters, and the second into headings, paragraphs, &c. There is a preface, notes, a list of books on the Roman and French law, and an index.

The chapters of the first part treat of the origin of the profession of an advocate among the Greeks, Romans, and French; of their general duties, fees, privileges, &c.; of the advocates *plaidans* and *consultans;* of the *causes grasses;* of the community of advocates and attornies.

The second part treats in detail of the professional duties of the advocate.

TREATISES.

ESSAI SUR L'INSTITUTION DES ADVOCATS et Procureurs des Pauvres, &c., d'après feu M. Antoine de Laujorrois, Conseiller au Parlement de Toulouse. 12mo. Paris, 1761.

An Essay on the Institution of Advocates and Attornies for the Poor, by Laujorrois, a counsellor in the parliament of Toulouse.

A list of the lives of French lawyers will be found in the fourth volume of Lelong's *Bibliothèque Historique de la France*, pp. 92—104.

AIDS.—See COURTS OF LAW AND TAXES.

ALLEU; ALLODIUM.—See FRANC-ALLEU.

AMORTISSEMENT.

This word means both the extinction and re-purchase or redemption of a debt or a right, and also the permission to hold lands in mortmain. For this permission a duty was payable to the king, called the *droit d'amortissement* (see "FRANCS-FIEFS," *infra*). The name of *gens de mainmorte* (mortmain) was given to those who held lands in mortmain; and also to serfs or villains, who existed in some of the *coutumes*, and were likewise called *main-mortables*.

TRAITÉS DE LA MAINMORTE ET DES RETRAITS; par M. F. J. Dunod, ancien Avocat au Parlement de Paris, &c. 4to. Paris, 1760.

A Treatise on Mortmains, and Villains or Serfs, and another on the Right of Redemption or Re-purchase of Property sold.

Dunod de Charnage, formerly an advocate in the parliament of Paris, was born in 1679, and died in 1752. He was author of a treatise on Prescription (see *infra*, under that title), and numerous other works, both legal and historical.

The first of these treatises is divided into six chapters, which are subdivided into sections and distinctions. The chapters treat of the origin, &c. of mortmain; of community in mortmain; of the succession to mortmain; of the mortgage and alienation of such property; how servitude ceases. This treatise has a preface and two indices.

The second treatise is divided into eleven chapters, and has two indices.

Both these works were once held in great estimation, as well as the author's Treatise on Prescription.

ANNUITIES.—See RENTS.

APPANAGES.

ESSAI SUR LES APANAGES, ou Mémoire historique de leur Établissement (par Louis-François du Vaucel), &c. 2 vols. 4to.

An Essay on Appanages, or a *Mémoire* on their creation.

The author, Du Vaucel, was grand-master of the waters and forests for the department of Paris.

This work is divided into two parts, the first of which is subdivided into

chapters, and the other contains twelve *mémoires* concerning the appanages of the crown of France, and illustrations containing the decisions of the council of state on the subject, from the year 1641 to the year 1780.

The five chapters of the first part treat—1. Of the inalienability of the domain; 2. Of the reversion of the appanages to the crown; 3. Of the privileges enjoyed by the princes till the promulgation of the ordinance of 1566; 4. Of the privileges preserved by them from that period till the author's time; 5. Of the rules laid down for the administration of the property of the appanages.

DES APANAGES en général, et en particulier de l'Apanage d'Orléans, par M. Dupin, Avocat. 18mo. Paris, 1827.

A Treatise on Appanages, in parts, by M. Dupin. In one of the parts of this treatise the author shows the former state of appanages, and in the last part he shows the actual state of the same.

This work was re-printed in Pailliet's *Dictionnaire Universel du Droit Français*, under the heading *Apanage*.

Another work by Dupin on the same subject was published in 4to. 1818, under the title of *Discussions sur les Apanages*: this latter work (a pamphlet) was written on the occasion of the claim made by the Duke of Orleans (afterwards Louis-Philippe, king of the French) to that portion of the appanage of his house which had not been sold by the nation during the Revolution.

RECUEIL D'ÉDITS, Ordonnances et Arrêts, concernant les Apanages, Privilèges des Princes, dons faits à eux, et pièces faites à ce sujet, depuis 1399 jusqu'en 1724. 2 vols. 4to.

A Collection of Edicts and other Enactments touching Appanages, from the year 1399 to the year 1724.

MÉMOIRES DES FILS DE FRANCE, leurs apanages et bienfaits, &c. par Jean du Tillet. [Printed in his *Recueil des Rois de France*.] 4to. Paris, 1618.

Mémoires on the Appanages of the King's sons, &c.

These are the principal works on the subject. Others will be found enumerated in the second volume of Lelong's *Bibliothèque, &c.*

ARBITRATORS AND ARBITRATIONS.

COMMENTAIRE SUR L'ÉDIT DES ARBITRES (du mois d'Août 1560), composé par J. Pierres, Lieutenant-général de la ville de la Rochelle. 8vo. Rochelle, 1564.

A Treatise on the Edict concerning Arbitrators (1560), by Pierres.

See the article *Arbitre* in Merlin's *Répertoire*.

ASSURANCE.—See INSURANCE.

TREATISES.

Assizes.

The assizes were, in early times, assemblies or meetings of the principal vassals and the most notable persons of a district, which were convoked three or four times a year by the courts to decide on important causes; such meetings could not take place at the command of the viscounts or *prévôts*. This was the manner of holding assizes, while the lords (*seigneurs*) administered justice themselves to their vassals. But when justice was administered by the bailiffs and the other superior judges, it was customary for them to visit the inferior tribunals within their jurisdictions, in order to remedy abuses and decide on the causes brought before them.

In the latter period of the monarchy, the name of *assizes* was given to extraordinary sittings of the superior judges, held once, twice or oftener in every year in the inferior courts within their jurisdiction, in order to examine whether the inferior officers had done their duty, and to hear and decide on cases brought against them. The times of holding the assizes were notified by placards; and causes were decided in the first instance, and without any expense, whether on the first demand, or when they were evoked from the judges of the district. During the assizes, the power of the inferior judges was suspended. When the assizes ended, those causes which had not been definitively decided at the assizes were brought before the inferior judges.

The name of assizes was also given to meetings held by the seigneurial judges; the object of these assizes was to inform those persons who were liable to their jurisdiction, of the police regulations, and to hear and decide without cost any complaints which they might have to make against one another. Other meanings of the word *assize* will be found in Denisart's *Collection de Décisions*, article *Assise*.

Attornies.

Essai sur la Profession de Procureur (par M. Groustel). 8vo. [Paris,] 1749.

An Essay on the Profession of an Attorney, by Groustel.

Le Parfait Procureur, contenant la Nouvelle Manière de procéder dans toutes les Cours, &c.; par Pierre Néel Duval. 2 vols. 4to. Lyons, 1705.

The Perfect Attorney, &c., by Duval.

Recueil d'Arrêts et Règlemens concernant les Procureurs, recueillis par P. Gillet. 4to. Paris, 1717.

This collection of edicts, &c. concerning attornies is commonly called the "*Code Gillet.*"

Gillet was an attorney, according to Camus.

Aubaine, Aubains.

See the remarks on the subject of the *Droit d'Aubaine, &c., ante*, p. 57. The *droit d'aubaine* was abolished in 1790—1; but was partly revived by the 11th and 726th articles of the *Code Civil*. It was again abolished in 1819.

DIPLOMATIQUE DES AUBAINS, ou du Droit Conventionnel entre la France et les autres puissances, relativement à la capacité réciproque d'acquérir ou de transmettre les biens, meubles ou immeubles, par actes entre vifs, par disposition de dernière volonté et par succession *ab intestat;* par M. Gaschon. 8vo. Paris, 1818.

On the right of the kings of France to succeed to the property of such foreigners as died within their dominions, and on the diplomatic arrangements with foreign powers on the subject; by Gaschon, an advocate.

See also Coquille's works.

AUGMENT.

This was in the provinces, where the Roman law prevailed, what the *douaire* or dower was in the provinces which were governed by their own customary laws. The *augment* was not, like the *douaire*, looked on as a gift of the law; it was more in the nature of a usage. In the customary laws of Toulouse and Bordeaux this right was expressly provided for to the wife. In some provinces the life interest was of the half of the property; in others, the third only. *Augments* were either conventional or legal, that is, by agreement, or what the law or usage allowed without any agreement. See the heading *Augment*, in Guyot's *Répertoire, &c.*, edited by Merlin, and in Denisart's *Collection de Décisions, &c.;* and the 15th and 18th *Plaidoyer* of Henrys (*ante*, p. 150) and Ricard's works. See also the article *Bagues et Joyaux*, in the *Encyclopédie Méthódique* (Jurisprudence); and in Ferrière's *Dictionnaire;* and *infra*, the headings "DOWER" and "PARAPHERNALIA."

AUTHORITY.—See *infra*, HUSBAND AND WIFE and PATERNAL AUTHORITY.

BAILLIAGES, BAILLIS, BAILIFFS, BAILIWICKS.—See *infra*, COURTS OF LAW, heading "*Ordinary Jurisdictions.*"

BAN ET ARRIÈRE-BAN.

The *ban* and *arrière-ban* was a proclamation calling on all the chief and mesne vassals of the crown, appointing a rendezvous, to serve in the army against the enemy, &c. They were to serve in person, or to supply a certain number of horse and foot-soldiers, according to the importance or value of their fiefs, &c. Merlin states that no *ban* and *arrière-ban* was proclaimed after the year 1674.

TRAITÉ DU BAN ET DE L'ARRIÈRE-BAN; par Jacques de Lalande. 4to. Paris, 1675.

A Treatise on the *Ban et Arrière-ban*, by De Lalande.

Jacques de Lalande, dean of the law faculty in the university of Orleans, was born in 1622, and died on the 5th February, 1703. He composed other works besides the present.

BASTARDS.

See the works of Bacquet and Coquille; Loisel's *Institutes Coutumières* (*infra*, "CUSTOMARY LAWS"); Expilly's 17th *Plaidoyer*, *ante*, p. 144; and the article *Bastard* or *Bâtard*, in Ferrière's *Dictionnaire*, and in Merlin's *Répertoire*.

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Benefices.—See Ecclesiastical Law.

Benefit of the Inventory.

This was a privilege granted to the heir, of causing an inventory to be made of the property of the deceased person whose property he inherited, &c., within a time limited by law. The object of making this inventory was that the heir, on taking the property, should be bound towards creditors only to the extent of the value of the property inserted in the inventory. This benefit was introduced into the Roman law by the Emperor Justinian, in order to obviate the difficulty felt by heirs respecting the taking possession of the property of deceased persons, without knowing the liabilities which they might incur. See the Code of Justinian, in the Roman law portion of this Catalogue.

This benefit was introduced into the provinces governed by the Roman law, and also in the *pays coutumiers*.

See the works of Henrys, *ante*, p. 148; of Le Brun, *ante*, p. 154; and of Pothier, No. 22, *ante*, p. 167; and also *infra*, "Successions."

Buildings.

Les Lois des Bâtimens, suivant la Coutume de Paris; par Desgodets, avec les notes de Goupy. 8vo. Avignon, 1802.

A Treatise on the Law respecting Buildings, according to the customary laws of Paris.

The author, Antoine Desgodets, an architect, was born at Paris in 1653, and died in that city on the 20th May, 1728.

The work is divided into two parts, the first of which relates to servitudes; the second, to repairs, &c. A new edition of this work, with references to the modern legislation of France on the subject, was published at Paris, in 8vo. 1845.

See *infra*, "Servitudes."

Cartularies.—See Diplomacy.

Cas Royaux et Prévôtaux.

These were criminal matters of which the inferior judges, as the royal *prévôts*, and the seigneurial judges generally, could not take cognizance. Some of these matters were termed *cas royaux* (royal cases); and the others, *cas prévôtaux* (provostal cases). The *cas royaux* were decided by the bailiffs, seneschals, and presidial judges; and the *cas prévôtaux* by the *prévôt* of the marshals of France, the vice-bailiffs and vice-seneschals, the *lieutenans criminels de robe courte*, including the *lieutenant criminel* of the *Châtelet* of Paris.

Both these kinds of *cas* will be found enumerated in the ordinance of 1670 (*ante*, p. 20). See also Jousse's *Administration de la Justice*, *ante*, p. 124.

Cens, Censives.

These were rents payable by the owners of inheritances *roturières*, held *en censive*, and situated within the lords' seigneury. A *roture* was an inheritance held *en censive*, which was a mark of distinction from fiefs, which were held *noblement*. As *roturiers*, that is, persons not noble, could not in former times possess or hold fiefs, the lords granted them a portion of their fee to be held in

censive, that is, at a certain rent in money, as an acknowledgment of the *dominium directum* of the *seigneur*. In some provinces the *cens* was a rent payable in kind.

See *infra*, "FEUDAL LAW," and Pothier's works, Nos. 33 and 37, *ante*, pp. 170, 171.

CEREMONIALS.

LE CÉRÉMONIAL DE FRANCE, ou Description des Cérémonies, Rangs et Séances observés aux Couronnemens, Entrées et Enterremens des Roys et des Roynes de France, &c.; par Théodore Godefroy, Avocat au Parlement. 4to. Paris, 1619.

A Description of the Ceremonies observed at the Coronation, Burial, &c. of the Kings and Queens of France, by Théodore Godefroy.

The author, an advocate in the parliament of Paris, was born in 1580, and died in 1649. He composed other works besides the present.

LE CÉRÉMONIAL FRANÇOIS. Tome premier, contenant les Cérémonies observées en France aux Sacres et Couronnemens des Roys et des Roynes, et de quelques anciens Ducs de Normandie, d'Aquitaine, et de Bretagne: comme aussi à leurs Entrées solemnelles, et à celles d'aucuns Dauphins, Gouverneurs de Province, et autres Seigneurs dans diverses villes du Royaume. Tome second, contenant les Cérémonies observées en France aux Mariages et Festins; Naissances et Baptêmes; Majorités des Rois; États Généraux et Particuliers; Assemblées des Notables; Lits de Justice; Hommages; Sermens de Fidélité; Réceptions et Entrevues; Sermens pour l'Observation des Traités; Processions et *Te Deum*. Recueilli et extrait de divers Auteurs et Mémoires. Par Théodore Godefroy, et mis en lumière par Denys Godefroy, son fils. 2 vols. fol. Paris, 1649.

This is an improved edition of the preceding work, and was compiled by Denis Godefroy, son of Théodore Godefroy. This edition contains the ceremonies observed at the coronation of the kings and queens of France; the marriages and festivities, births, baptism, &c. of the kings; those observed at the opening, &c. of the States General and Provincial, *Lits de Justice*, &c. It does not, however, comprise the ceremonies observed at the funerals of the kings, &c., which are to be found in Théodore Godefroy's edition.

It is stated in the *Biographie Universelle*, article *Godefroy* (*Denis*), that two other volumes were intended to be published by him. A plan of a new edition of the *Cérémonial* was published by Joly in a 4to. volume in 1746; but the project was not carried into effect.

Denis Godefroy, historiographer of France, was born at Paris in 1615, and died at Lille in 1681. He composed other works besides the present.

A list of other works on the subjects comprised in the *Cérémonial* will be found in Lelong's *Bibliothèque Historique*, vol. 2, pp. 702—741.

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Chace and Fishing.

Traité du Droit de Chasse (par F. de Launay). 12mo. Paris, 1681.

A Treatise on the Rights of the Chace or Hunting, by De Launay.

Code des Chasses (par Cl. M. Saugrain). 2 vols. 12mo. Paris, 1765.

The Code of Hunting, &c., by Saugrain.

Dictionnaire Raisonné du Droit de Chasse, &c.; suivi d'une Notice des principes sur le Droit de Pêche; par M. Jean Henriquez, Avocat en Parlement. 2 vols. 12mo. Paris, 1784.

A Dictionary or Digest of the Rights of the Chace, &c., by Henriquez, an advocate in the parliament of Paris.

Champarts.

This was a rent or payment in kind due to the lord, and to be taken by him after the tithe due to the clergy was raised. Some authors state that the lord's due was raised first. This due varied in different places; in some it amounted to a tenth of the produce (corn, fruit, &c.); in others, to a less quantity. *Champart* does not appear to have prevailed in all the provinces. It is stated by some authors to have been in the stead of the *cens*.

See the works of Pothier, No. 34, *ante*, p. 170.

Chapeau de Roses, or Chappel de Roses.

In some of the *coutumes* the fathers and mothers of girls were allowed to give them some trifling gift on their marriage, which was instead of the *légitime* and *advenant*, to which they might otherwise be entitled. It was the custom in such case to put a *chapeau* (or *chapel*, as it is sometimes called) of roses on the daughter's head. Notwithstanding that the claims of daughters in respect of the successions of their fathers and mothers were thus cut off, yet the daughters might be reinstated in their claims by some of the *coutumes*, either by a clause in the will of the father or mother, or by other means. The *coutumes* where this practice prevailed were (according to Ferrière in his *Dictionnaire*) those of Touraine, Auvergne, Normandy, Anjou, and Maine.

See the word *Avenant* in Ferrière's *Dictionnaire;* and *infra*, *Légitime*, and *Parage* (under the heading "Feudal Law.")

Charters.—See Diplomatics.

Cheptels.

A *cheptel* (or, as it is sometimes called, *chaptel*, *chepteil*, or *chetel*) is a lease of cattle, the profit being divided between the lessor and lessee. This contract was therefore in the nature both of a lease and a partnership.

Traité Politique et Économique des Cheptels, par un Ancien Avocat au Parlement [Colas]. 12mo. Dijon, 1765.

A Treatise on *Cheptels*, by Colas, an advocate in the parliament of Paris.

See Pothier's works, No. 9, *ante*, p. 163.

Clergy of France, Assemblies of the.

The clergy of France assembled by deputies (with the king's permission) every ten years, to renew the contract concerning the *rentes constituées sur l'Hôtel-de-Ville* of Paris; the clergy having agreed in 1585 to apply their tenths to pay the debts of the same Hôtel-de-Ville. Besides these grand meetings (which were also called the *assemblées du contrat*), others were held every fifth year, between two of the great meetings, to examine the accounts of their receivers, and for other purposes. They also had other intermediate meetings on some pressing or extraordinary occasion.

The manner of convening these assemblies was as follows. The king caused a writ to be sent to the general agents of the clergy, which named the place and time of the meeting. The agents thereupon wrote to the archbishops or their grand-vicars to hold provincial meetings. The archbishops or the grand-vicars wrote to the suffragans to point out the time and place of such provincial meeting. Every bishop convoked the syndic and deputies of his diocese. Every diocese sent deputies to the provincial meeting. The deputies nominated those who were to compose the general assembly of the clergy.

Every ecclesiastical province sent four deputies to these assemblies, two of whom were to be of the first order, that is, archbishops or bishops, and two of the second order, that is, abbots, priors, or some beneficed clergymen subject to the payment of tenths. When the deputies were arrived at the place appointed, they went to the senior archbishop, at whose palace the king's letter to the agents was read. Some days afterwards they met at the place appointed, heard mass, and went through some preliminary business, elected presidents, promoters and secretaries. When the day came for the opening of the assembly, the deputies heard a mass of the Holy Ghost. The agents opened the meeting with a speech, and the deputies proceeded afterwards with the regular business for which they had met. Further particulars on this head will be found in Expilly's Dictionary, article *Assemblées du Clergé*.

In the first volume of Lelong's *Bibliothèque Historique de la France*, a list of works, under the heading *Actes et Mémoires des Assemblées générales du Clergé de France*, both printed and manuscript, will be found at pp. 457—465, articles 6825—6955. And in the printed Catalogue of the *Bibliothèque du Roi*, article *Droit canonique*, beginning at No. 1678, will be found a number of works relating to the clergy of France. Also in De Bure's *Bibliographie Instructive*, heading "Jurisprudence," will be found enumerated eighty-one articles, manuscript and printed, relating to the assemblies of the clergy of France. The title to the collection enumerated in De Bure is, *Recueil des Actes, Titres, Mémoires, et Procès-verbaux des Assemblées du Clergé de France, depuis leur commencement jusqu'à présent*, &c.

Recueil des Actes, Titres et Mémoires, concernant les Affaires du Clergé de France, augmenté d'un grand nombre de Pièces et d'Observations sur la Discipline présente de l'Église. Divisé en 12 tomes, et mis en nouvel ordre, suivant la Déliberation de l'Assemblée Général du Clergé, du 29 Avril, 1705, &c. 14 vols. 4to. Paris and Avignon, 1768—71.

A Collection of Papal Bulls, Decrees of Councils, Parliaments, Courts,

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&c. and numerous other acts, documents, &c. relating to the clergy of France. This edition is a reprint of the edition in 12 vols. 4to. published by the Messieurs Le Merre. This collection is divided into six parts, which are subdivided into titles and chapters; the documents in each chapter are generally numbered.

The first part treats of the Catholic faith and of the doctrines of the church, and occupies Vol. I. The second part treats of the ministers of the church, and occupies Vols. II., III. and IV. The third part treats of Divine worship, and occupies Vol. V. The fourth part treats of ecclesiastical jurisdiction; this fills Vols. VI. and VII. The fifth part treats of the assemblies of the clergy, and of their property and its administration, of church livings, the *régale*, &c., and occupies Vols. VIII., IX., X., XI. and XII. The thirteenth volume contains harangues, &c. and the last volume is an alphabetical abridgment of the whole collection. Each volume has an index of titles and chapters: the first volume has a preface. The earlier editions of the *Mémoires* of the Clergy are noticed in the preface.

Vol. I.—Part 1. Of the Catholic Faith and the Doctrines of the Church.—Tit. 1. Of the Catholic faith.—The first act in this title is a circular letter of the general assembly of the clergy of France in 1683, concerning the reformed religion; 2. Of the censures made or received and approved by the clergy of France; 3. Of councils, both general and provincial, and their authority; 4. Of the printing and approval of books on religion; 5. Of universities, colleges and schools; 6. Of heretics.

Vol. II.—Part 2. Of the Ministers of the Church.—Acts, &c. concerning the First Order of the Ministers of the Church.—Tit. 1. Of archbishoprics and bishoprics, and of their erection and translation; 2. Of the rights and prerogatives of the archbishops, &c.; 3. Of the nomination, qualities, rights and privileges of bishops.—Acts, &c. concerning the Second Order of the Ministers of the Church, that are secular.—Tit. 1. Of seminaries; 2. Of chapters of cathedral and collegiate churches, and of their canons and dignitaries.

Vol. III.—Tit. 3. Of vicarages and vicars (*cures et curés*); 4. Of preachers and regular and secular missionaries, exempt and not exempt; 5. Of curates (*vicaires*) and *desservans*, and other clergymen; 6. Of the revenue of churches for their repairs, and of churchwardens, their administration, rights and privileges.

Vol. IV. Acts, &c. concerning the Second Order of the Ministers of the Church, that are regulars.—Tit. 1. Of the general regulations which concern the regulars; 2. *Des religieux de chœur qui sont rentés;* 3. Acts, &c. particularly concerning the religious mendicants; 4. Of the military orders of religion; 5. Of convents of females who have taken the vows, and of their government; 6. Of hermits, *oblats* or lay monks, and of apostates (monks) and others that are out of their monasteries; 7. Of the secularization of monasteries and persons who have taken the vows.

Vol. V.—Part 3. First Part of the Acts, &c. relating to Divine Worship.—Tit. 1. General regulations relating to the sacraments;

of the registry of baptisms, marriages and burials, &c.; 2—6. Of confirmation, the eucharist, penitence, and extreme unction; 7. Of clerical tonsure and ordination; 8. Of marriage.—SECOND PART OF THE ACTS, &c. RELATING TO DIVINE WORSHIP.—Tit. 1. Of the worship that we owe to God; 2. Of Sundays and Holydays, &c.; 3. Acts, &c. relating to the *office divin;* 4. Of the canonization of saints, their invocation, &c.; 5. Of the veneration for churches and other holy places.

Vol. VI.—Part 4. OF ECCLESIASTICAL JURISDICTION. A short treatise, in two parts, is prefixed to this heading.—Tit. 1. Of the general regulations concerning the jurisdiction of the bishops; 2. Of the freedom from the control of the bishops, assumed by some chapters and monasteries, &c.

Vol. VII.—Tit. 3. Of the ecclesiastical jurisdiction, both voluntary and *gracieuse*.—OF THE ECCLESIASTICAL CONTENTIOUS JURISDICTION, BOTH CIVIL AND CRIMINAL.—Tit. 1. Of the creation of officialities and officials; 2. Of the qualifications of the officials and other officers of officialities; 3. Of the institution and deprivation of the officials; 4. Of the competency of the ecclesiastical judges; 5. Of the forms to be followed by the ecclesiastical judges in proceedings before them, and in the giving and execution of their judgments; of the criminal proceedings before ecclesiastical judges; of the secular or lay judges who take cognizance of the delinquencies of the ecclesiastics; 6. Of the penalties which ecclesiastical judges may inflict on those delinquents that are subject to their jurisdiction; 7. Of appeals from the decisions of the ecclesiastical judges,—*appels simples*, and *appellations comme d'abus*.

Vol. VIII.—Part 5. OF THE ASSEMBLIES OF THE CLERGY, AND OF THEIR PROPERTY AND ITS ADMINISTRATION.—Tit. 1. Of the assemblies of the clergy, general, provincial and diocesan, and of the choice, qualifications and powers of the deputies composing them, and of their presidents and officers; 2. Of the assessment of the sums imposed by the clergy on the property of the church, and on ecclesiastical persons and communities; 3. Of the receivers general, &c. of the clergy, their rights, exemptions and privileges; 4. Of the ancient syndics-general of the clergy, and of the chambers or offices for tithes, &c. that have been substituted for them; 5. Of the general agents of the clergy; 6. Of the archives of the clergy.

Vol. IX. Of the contracts made by the clergy of France with the kings and the receivers-general of the clergy, for the imposing, levying and receipt of tithes, &c. in two parts.

This volume also contains documents relating to the alienation and repurchase of the property of the church.

Vol. X. This volume contains two titles only; the first treats of graduates (*gradués*), and of their rights and privileges; and the other of collators and patrons of ecclesiastical benefices, and of their rights and privileges.

Vol. XI. This volume is not divided into titles. The principal subjects contained in it are—1. The rights of the kings in respect to the dis-

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posal of ecclesiastical benefices; 2. The *régale* and its use in France; 3. The *indult* of the chancellors of France, and of the parliament of Paris; 4. The special *indults* accorded to the kings of France.

Vol. XII. This volume has no division of titles: it treats—1. Of private patrons of livings; 2. Of the requisite qualifications to obtain livings; 3. Of the conferring of benefices, and the taking possession of the same.

Vol. XIII. This volume comprises the remonstrances, *cahiers* and *mémoires* in the shape of remonstrances and harangues to the kings and queens of France, by the French clergy, either in the states-general, or in the general or special assemblies of the clergy. The earliest of these is dated in 1560. This is a very curious volume.

Vol. XIV. This volume is divided into two parts, the first of which contains an alphabetical abridgment of the subjects included in the whole collection; and the other an index of names.

The first edition of this work was published by Scévole (in Latin Scævola) and Louis Saint-Marthe, in 4 vols. fol. Paris, 1656. The present edition (which, as well as the other, was published under the direction or superintendance of the French clergy) is by Denys de Sainte-Marthe, a member of the same family as Scævola and Louis, and superior-general of the congregration of St. Maur. His fellow compilers and successors were, Barthélemi Petit de la Croix, Jean Tiroux, Joseph du Clou, Félix Hodin, Étienne Brice, Toussaint Duplessis, Pierre Henry and Jaques Tascheran, all Benedictins of the Congregation of St. Maur.

See *infra*, "Ecclesiastical Law."

Commercial Law.

Dictionnaire Universel de Commerce, par Jacques Savary Desbrulons, &c. 3 vols. fol. Paris, 1748—50.

A Commercial Dictionary, by Savary Desbrulons (or Savary, as he is usually called), continued after his death by his brother Philippe-Louis.

Savary was born on the 22nd September, 1622, and died on the 17th October, 1690. His aptitude for commercial affairs caused him to be made a member of the commission that drew up the ordinance of 1673, commonly called the *Code Marchand*, or the *Ordonnance de Commerce*.

Postlethwayte's "Universal Dictionary of Trade and Commerce" is a translation of Savary's work, with additions accommodated to English commerce.

Le Parfait Négociant, et Parères sur diverses Questions, par Jacques Savary. 2 vols. 4to. Paris, 1800.

The Perfect Merchant, and the (*Parères*) Opinions of Merchants on Commercial Questions; by Savary. The *Parfait Négociant* first appeared in 1675, and the *Parères* in 1679.

See the Ordinance of 1673, *ante*, p. 20.

Le Traité de Commerce de Terre et de Mer à l'usage des Marchands, Banquiers, &c. avec la Pratique suivie dans les

Jurisdictions Consulaires, et dans les autres Tribunaux. 2 vols. 12mo. Paris, 1710.

A Treatise on Commerce, with the Practice of the Consular Tribunals, &c.

MÉMOIRE SUR LE COMMERCE de la France et de ses Colonies (par Tolosan). 4to. Paris, 1789.

A *Mémoire* on the Commerce of France and her Colonies, by Tolosan, an intendant of commerce.

TRAITÉ SUR LES CESSIONS ET BANQUEROUTES, &c., by Gabriel Bounyn. 8vo. Paris, 1586.

A Treatise on Surrenders of Property and Bankruptcy, by Bounyn.

COMMISSAIRES-ENQUÊTEURS ET EXAMINATEURS.

These were officers (*de longue robe*) appointed to perform certain duties connected with the administration of justice and the police, to save the magistrates' time, &c. They were called, at Paris, "commissaries in the *châtelet*." These officers were suppressed by the law of the 7—12th September, 1790. Their functions are now divided between the justices of the peace, the members of the tribunals of first instance, the *juges d'instruction*, the king's attornies, and the commissaries of police.

RECUEIL DES ÉDITS, &c., concernant les COMMISSAIRES-ENQUESTEURS ET EXAMINATEURS, &c. 8vo. Paris, (about 1702).

A Collection of Edicts, &c. on the *commissaires-enquêteurs, &c.*

COMMITTIMUS.

This was a privilege granted by the king to the officers of his household and others, to have their causes, whether personal, possessory or mixed, tried in the Requests of the Palace or the *Hôtel de Paris*, and to have them brought (evoked) from other tribunals. This privilege did not extend to criminal and police matters. Among the persons entitled to this privilege (a list of whom will be found in Ferrière's *Dictionnaire de Droit, &c.*) were the princes of the blood, the presidents, counsellors and advocates-general and attornies-general of the parliaments and other sovereign courts, the officers and *commensaux* of the king's household, &c. This privilege was abolished in 1790.

COMMON LAW.

By the common law of France, previously to the Revolution, must be understood the customary laws, and the king's ordinances for the provinces governed by the customary laws, which comprised the greater part of the kingdom. With regard to those provinces which were governed by the Roman law, it has been already mentioned (*ante*, p. 6) that the Roman law was their common law. The authority of the customary laws of Paris in respect of points whereon the other customary laws were silent, has been already mentioned, *ante*, p. 32.

Many of the old French writers, as Le Maistre (see his 12th *Plaidoyer*), Henrys and his commentator Bretonnier, and Laurière and Ferrière, contended that any deficiency in the *coutumes* was to be supplied by the Roman law, and not by the *Coutume* of Paris. This, however, was not the opinion of the best

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lawyers on the subject, as Coquille, Basnage and others. Bourjon, in his *Droit Commun de la France*, says that "the common law of the kingdom is the exact construction (*explication*) of the customary laws of Paris;" and Brodeau expresses a similar opinion. Ferrière, in his *Dictionnaire*, article *Droit Commun*, quotes (curiously enough) several decisions of the parliament of Paris in support of the authority of the *Coutume* of Paris, in opposition to the Roman law.

The only work on the subject of this article is Bourjon's, which is intitled as follows:—

LE DROIT COMMUN DE LA FRANCE, ET LA COUTUME DE PARIS, réduits en principes, &c. Par feu Me. François Bourjon, Ancien Avocat au Parlement, &c. 2 vols. fol. Paris, 1770.

The Common Law of France and the Customary Laws of Paris, reduced into Principles, and ranged in the order of a Commentary on the same Customary Laws, by Bourjon.

François Bourjon was an advocate in the parliament of Paris, and flourished in the eighteenth century.

This work is divided into six books, which are subdivided into titles, chapters, sections, &c. The various articles of the *Coutume* of Paris are noted under the sections, &c. There is a dedication, a dissertation, and a general index. The first book treats of persons; the second, of property; the third, how property is acquired; the fourth, of the rights of property; the fifth, how property is alienated; and the sixth treats of actions, &c.

COMMUNAGES OR COMMUNAUX.

This word means common of pasture, &c. See La Ferrière's *Dictionnaire de Droit, &c.*, and Guyot's *Répertoire* (ed. Merlin), under the heading *Communaux*.

COMMUNES AND BOURGEOISIES.

The origin of the *Communes* is dated, by several writers on the subject, from the beginning of the twelfth century, that is, the reign of Louis le Gros. Louis is stated to have begun the enfranchisement of the serfs belonging to the domains of the crown, to whom charters of privileges (*chartes de communes*) were granted by him and his successors. The motive for this act on the part of the kings is stated to have originated in their desire of recovering the authority of the crown, which in those times of confusion and anarchy had been usurped by the feudal lords. The kings also, at the same time, revived and confirmed the ancient privileges of the towns. The inhabitants of several towns and cities also purchased their own enfranchisement. The earliest *charte de commune* was that granted to the city of Laon in 1112.

TRAITÉ DE JURISPRUDENCE SUR L'ORIGINE ET LE GOUVERNEMENT DES COMMUNES et Communaux des Habitans des Paroisses et Seigneuries. Par M. E. D. L. P. de Freminville, &c. 12mo. Paris, 1763.

A Treatise on the Origin and Government of *Communes* and *Communage*, &c. by Edme de Freminville, bailiff of the town and marquisate of La Palisse.

TRAITÉ DES DROITS DES COMMUNES ET DES BOURGEOISIES, par Varsavaux, Avocat. 12mo. 1759.

A Treatise on the Rights of *Communes* and *Bourgeoisies*, by Varsavaux, an advocate.

RECHERCHES SUR L'ORIGINE DES COMMUNES.

Researches on the Origin of *Communes*. These are to be found in Glatigny's works, *ante*, p. 108. Glatigny's works are misplaced at p. 108; they ought properly to have been inserted among the collected works of authors.

See *infra*, "MUNICIPAL LAW."

COMMUNITY OF PROPERTY (HUSBAND AND WIFE).

See the works of Le Brun, *ante*, p. 154, and Pothier, No. 20, *ante*, p. 166.

CONFLICT OF LAWS, &c.—See STATUTES.

CONGRÈS (LE).

The *congrès* was a meeting of surgeons and matrons, for the purpose of a personal inspection, in cases where a married man or woman was accused of impotency. This singular ceremony was introduced into France in the sixteenth century: it was abolished in 1677.

See the article *Congrès* in the *Encyclopedie Méthodique* (Jurisprudence), and in the *Dictionnaire de l'Académie Française*.

RECUEIL GÉNÉRAL DES PIÈCES contenues au Procès de M. le Marquis de Gèvres et de Mademoiselle de Mascrani, son Épouse. 2 vols. 12mo. Rotterdam, 1714.

A general Collection of Documents, &c. relating to the Process between the Marquis of Gèvres and his Wife. This trial took place after the abolition of the *congrès*.—See also Nos. 53 and 141 of the *Causes Célèbres*, *ante*, pp. 110, 113; and Henrys's works (6th *plaidoyer*), *ante*, p. 149.

CONQUÊTS.

These were the real property acquired by the husband and wife during the period of the existence of the community of property between them. See "COMMUNITY OF PROPERTY" and "HUSBAND AND WIFE."

See Ferrière's *Dictionnaire de Droit*, *&c.*, and also the works of Le Brun and Renusson, *ante*, p. 154, and Pothier, No. 20, *ante*, p. 166.

CONSERVATEURS DES HYPOTHÈQUES.

These were officers, appointed by an edict dated in 1771, for keeping registries of mortgages on real property, &c. There were also officers styled *conservateurs des hypothèques*, who kept the rolls or registries of the *appositions au sceau*, in respect of ratifications of the *rentes sur l'Hôtel de Ville*.

See *infra*, "MORTGAGES."

CONSTITUTIONAL OR PUBLIC LAW.

LE DROIT PUBLIC DE LA FRANCE, éclairci par les Monumens de l'Antiquité; par M. Bouquet. 4to. Paris, 1756.

The Public Law of France, by Bouquet.

Pierre Bouquet, an advocate, was born in the eighteenth century, and died in 1781. He composed several other works besides the present and the following article.

TREATISES.

LETTRES PROVINCIALES, OU EXAMEN IMPARTIAL DE L'ORIGINE, de la Constitution et des Révolutions de la Monarchie Française. 2 vols. 8vo. Paris, 1772.

On the Origin of the French Monarchy, by Bouquet.

MAXIMES DU DROIT PUBLIC FRANÇAIS, tirées des Capitulaires, des Ordonnances du Royaume et des autres Monumens de l'Histoire de France. 2 vols. 4to. Amsterdam, 1775.

Maxims concerning the Public Law of France, taken from the Capitularies and Ordinances, &c. of the kingdom.

These *Mémoires* (according to Dupin, who highly praises them) were the joint production of Mey, Maultrot and Aubrey.

Claude Mey, an advocate in the parliament of Paris, was born at Lyons in 1712, and died at Sens in 1796. A list of his other works, which all relate to ecclesiastical law, will be found in the *Biographie Universelle*, article *Mey*.

Gabriel-Nicolas Maultrot, an advocate in the parliament of Paris, was born in the early part of the eighteenth century, and died at Paris in 1803. A list of his very numerous writings, all of which relate to ecclesiastical law, will be found in the *Biographie Universelle*, article *Maultrot*.

Aubrey, an advocate in the parliament of Paris, was born in the eighteenth century, and died at Paris in 1787.

CONSIDÉRATIONS SUR LE GOUVERNEMENT ANCIEN ET PRÉSENT DE LA FRANCE; par M. le Marquis d'Argenson. 8vo. Amsterdam, 1764.

Remarks on the Ancient and Present Government of France.

René-Louis de Voyer, Marquis d'Argenson, at one time chancellor and keeper of the seals, was born in 1694, and died in 1757. He wrote other works beside the present.

LES VRAIS PRINCIPES DU GOUVERNEMENT FRANÇAIS, &c.; par un Français (Gin). 2 vols. 12mo. Paris, 1787.

The True Principles of the French Government, by Gin.

Pierre-Louis-Claude Gin, a counsellor in the grand council, was born in 1726, and died in 1807. A list of his numerous works, legal and otherwise, will be found in the *Biographie Universelle*, article *Gin*.

THÉORIE DES LOIX POLITIQUES DE LA MONARCHIE FRANÇOISE. 8 vols. 8vo. Paris, 1792.

The Theory of the Constitutional or Political Laws of the French Monarchy. The author was Madlle. de Lézardières.

This very important work was intended to be divided into four epochs; the eight volumes, however, only comprise the first two epochs, and the compiler cannot ascertain whether the work was ever completed.

The first epoch treats of the political condition of the Gauls before and during the conquest of the Romans, and of the political condition of the Germans or Franks before their conquests in Gaul.

The second epoch extends from Clovis's coming to the throne till the reign of Charles the Bald (*le Chauve*).

The third epoch was to comprise the period between the division of the ancient Frankish empire and the reign of Philippe le Bel.

The fourth epoch was to comprise the period between the reign of Philippe le Bel and the revolution in 1789.

The text occupies but a small part of each volume; the rest is taken up with a summary of the proofs or illustrations, and the illustrations themselves, which are very minute. The subjects of the parts or books of the two epochs are as follows:—

Vol. I. Epoch 1.—Book 1 treats of the condition of Gaul at the time when it was conquered by the Romans, &c.; 2. Of the division of the lands of the Roman Empire, the condition of the people, the composition of the senate, &c.; 3. Of the constitution of the armed *milice*, and of the rights of those who composed it; 4. Of the *curiales*, the plebeians and the slaves; 5. Of the exercise of the different political powers in the Roman empire; 6. Of the public revenues, &c.; 7. Of the origin of the power of the emperors; 8. Of the invasions of the Barbarians; 9. Of the origin of the Frankish nation.

Vols. II.—III. Epoch 2.—Part 1. *Of the extent of the territory of the monarchy, the condition of the people; of royalty, the army, the general assemblies of the nation; and of the legislative power under the first two races.*—Book 1. Narrative of the conquests of the Franks till the time of Charlemagne; 2. Of the general condition of the people; 3. Of the division of the booty and lands among the conquerors; the money, cultivation and division of the lands, &c.; 4. Of the number of the slaves under the Frankish monarchy; 5. Of the sources of the fundamental laws of the Frankish monarchy. This book is highly important, as it contains (among other matters) a very detailed notice of the various assemblies of the nation under the first and second line of kings.

Vols. IV.—V. Epoch 2.—Part 2. *Of the state of the church in the Frankish monarchy.*—Book 1. Of the extent, &c. of the ecclesiastical power, and of the canon law which governed the Gallican church in the Frankish monarchy; 2. Of the clerical hierarchy, &c.; 3. Of the ecclesiastical jurisdiction generally; 4. Of the origin of the property of the clergy, and its vicissitudes under the first and second line of kings.

Vols. VI.—VIII. Epoch 2.—Part 3. *Of the condition of property and persons; of the military power; of the civil and criminal laws; of the origin, composition and functions of the tribunals in the Frankish monarchy.*—Book 1. Of the nature, &c. of allodial lands and fiefs (*bénéfices*), and of the rank of the various citizens, both in the army and in the state; 2. Of the military power generally; 3. Of the criminal and civil laws, and the forms of procedure; 4. Of the power of judging, and of carrying the judgments into execution, in the Frankish monarchy.

The compiler has not been able to ascertain whether the other parts of

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this work were ever completed. It is stated in the *Jugement du Censeur*, prefixed to the 8th volume, that the authoress was engaged in the work about twenty years. A new edition of this highly valuable and important work was published in 4 vols. 8vo. Paris, 1843, by the Viscount de Lézardières.

Marie-Pauline de Lézardière or Lézardières was born in Poitou in 1754, and died in 1835.

HISTOIRE des Institutions Mérovingiennes, par M. Lehuërou. 8vo. Paris, 1840.—Histoire des Institutions Carolingiennes et du Gouvernement Carolingien, par le même. 8vo. Paris, 1843.

The History of the Merovingian Institutions, and of the Carlovingian Institutions and Government, by Lehuërou. This is an important work (for the two volumes form but one work, though the titles are different), and is highly esteemed.

DROIT PUBLIC FRANÇAIS, ou Histoire des Institutions Politiques, &c.; par M. Paillet. 8vo. Paris, 1822.

The Public Law of France, or History of the Political Institutions of the Gauls, the Franks and the French, till the opening of the States General in 1786, and downwards from that period, by Paillet, an advocate.

HISTOIRE DE L'ADMINISTRATION en France, et des progrès du Pouvoir Royal, depuis le Règne de Philippe Auguste jusqu'à la Mort de Louis XIV., &c.; par M. C. Dareste de la Chavanne, &c. 2 vols. 8vo. Paris, 1848.

The Administrative History of France, from Philippe Auguste's Time till the Death of Louis XIV., by Dareste de la Chavanne.

See *supra*, "COMMUNES," and *infra*, "MUNICIPAL LAW," "PARLIAMENTS," "STATES GENERAL AND STATES PROVINCIAL;" and also the second volume of the *Profession d'Avocat*, pp. 176—192.

See for the public law of the various provinces, the second volume of the *Profession d'Avocat*, pp. 193, 194; the second volume (Jurisprudence) of the *Catalogue des Livres imprimés de la Bibliothèque du Roi.*

CONSULS.

LES INSTITUTS DU DROIT CONSULAIRE, ou la Jurisprudence des Marchands, par François Toubeau. 2 vols. 4to. Bourges, 1700.

The Institutes of the Law respecting Consuls, &c. by François Toubeau, a bookseller at Bourges.

INSTRUCTION GÉNÉRALE SUR LA JURISDICTION CONSULAIRE. 4to. Bordeaux, 1722.

On the Jurisdiction of Consuls.

LA JURISPRUDENCE CONSULAIRE, par M. Rogue. 2 vols. 12mo. Angers, 1773.

The Practice of Consuls, by Rogue.

A list of other works on this subject will be found in the 2nd volume (Jurisprudence) of the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, pp. 284—286.—See *supra*, "COMMERCIAL LAW," and *infra*, p. 226.

CONTRACTS.

See the works of Pothier, *ante*, pp. 161—165.

CORPORATIONS OF TRADES, &c.

These were associations (*corps* or *communautés*; *corps* was applied to tradesmen, and *communautés* to the others) of tradesmen, and also of artisans and workmen, who were governed respectively by statutes and regulations affecting them all in common. These associations appear to have existed in very early times, and the writer of the article *Communauté* in the second volume (Jurisprudence) of the *Encyclopédie Méthodique*, mentions the existence of a king of the pedlars, who had jurisdiction over all persons who had dealings in commerce, &c. The same writer adds that there do not appear to have been any regulations or statutes made in respect of such corporations before the twelfth century.

In the reign of Charles IX. several new communities were constituted *corps particuliers de jurande*; in the reign of Louis IX. the number was increased to 129. They were reduced in 1771, but were re-established in the same year, in a simpler manner.

The *jurande* was the office or function of *juré* of a corporation of traders or artisans, and was, according to the writer of the article *Jurande*, in the fifth volume (Jurisprudence) of the *Encyclopédie Méthodique*, created at the same time that the artisans and workmen were incorporated by Louis IX.

Certain officers, called *suprapositi*, were established in every community, &c., with the power of inspection over the other masters of the same trade, &c. These officers or overseers were afterwards called *jurés*: they were also called *gardes* and *jurés-gardes*.

The term *maitrises* meant the qualifications of persons, or rather their appointment or admission, as masters in any *corps* or community, after they had undergone an examination.

By an edict dated in February, 1776, all corporations of trades, artisans and workmen (*arts et métiers*), the *maitrises*, or masterships, and *jurandes*, were abolished, as well as all statutes, regulations, &c. made in favour of such bodies; so that by virtue of this edict every person was allowed to carry on any trade or business that he pleased, except those of apothecaries, goldsmiths, printers, and booksellers, which remained as before.

Another edict, dated in August of the same year, re-established the ancient corporations, &c. of trades, namely, six corporations of tradesmen, eighty-four communities of artisans and workmen, and made several professions free. The same edict enacted that new statutes and regulations should be made for each of the *corps* and *communautés*. The six corporations of tradesmen (*marchands*) were —1. The drapers and mercers; 2. The grocers; 3. The hatters, furriers, and *bonnetiers*; 4. The goldsmiths, gold-beaters, and gold-wire drawers; 5. The makers of stuffs and gauzes, ribbon-weavers, and *rubaniers*; 6. The wine-merchants.

All these corporations were again abolished at the beginning of the revolution in 1789.

TREATISES.

RÉGLEMENS SUR LES ARTS ET MÉTIERS DE PARIS, rédigés au 13e Siècle, et connus sous le nom du *Livre des Métiers d'Étienne Boileau, &c.* 4to. Paris, 1837.

Regulations concerning the trades, &c. of Paris, compiled in the thirteenth century, and known by the name of "The Book of Trades of Étienne Boileau." This edition is by G. B. Depping, a member of the Society of Antiquaries at Paris, &c. This edition forms part of the collection of *Documents inédits sur l'Histoire de France, 1e Série — Histoire Philosophique.*

Boileau was *prévôt des marchands* of Paris in the reign of Louis IX., and was the original compiler of these regulations.

Another edition of this collection will be found in the *Recueil des Anciennes Lois François;* but the present is the best edition, as it contains the whole of the regulations, as stated by the editor. There is a preface, an introduction on the state of the industry and commerce of Paris in the thirteenth century, notes, and indices.

The collection is divided into two parts, which are followed by the ordinances, &c. on the subject, from 1270 to 1300 (forty-six in number). The first part is divided into ten titles, which are subdivided into sections; each of these titles (except the last) comprises a trade. The second part is also divided into titles, the number of which is thirty-two; the subjects of these are the carriage and toll of the various merchandizes. The running title to the collection is "*Registres des Mestiers et Marchandises.*"

ORDONNANCES ROYAUX DE LA JURISDICTION DE LA PREVOSTE DES MARCHANDS ET ESCHEVINAIGE DE LA VILLE DE PARIS. Constituez et ordonnez tant par les feuz Roys que par le Roy nostre sire Francoys premier de ce nom. Et plusieurs arrestz et ordonnances de la Court de Parlement, avec plusieurs beaulx privileges donnez aux bourgeois de Paris. Extraictz et corrigez sur les registres de lhostel dicelle ville, &c. Fol. Paris, 1528.

A collection of ordinances, &c. concerning the "*Prévôté*" of the traders, &c. of Paris, including some decisions of the parliament of Paris, and some privileges granted to the citizens. The principal ordinance in the collection is that of Charles VI., dated in February, 1415, in fifty-five chapters, divided into articles. The edition of this ordinance in the "*Anciennes Lois Françaises*" contains 700 articles. The ordinance relates principally to corn merchants, wine sellers, wood and charcoal sellers, bakers, bargemen, &c.

There is an index of the chapters, &c.; a fine wood-engraving in the frontispiece, and numerous woodcuts scattered through the volume relating to the trades, &c.; a list of the "*prévôts*" &c. from 1406 to 1528.

RECUEIL DES PRIVILÈGES DES PRÉVÔTS DES MARCHANDS, &c. DE LYONS. 4to. Lyons, 1649.

A Collection of the Privileges of the *Prévôts* of the Traders of Lyons. See *infra*, p. 231.

RECUEIL DES RÈGLEMENS pour les Corps et Communautés d'Arts et Métiers, commençant au mois de Février, 1776. 4to. Paris, 1779.

A Collection of Regulations for Corporations of Trades, beginning in 1776.

RECUEIL DES RÈGLEMENS, &c. des Manufactures, &c. 7 vols. 4to. Paris, 1730—41.

A Collection of Regulations concerning Manufactures, till the year 1741.

CODE DE LA LIBRAIRIE ET IMPRIMERIE DE PARIS, ou Conférence du Règlement arrêté au Conseil d'État du Roy, le 28 Fevrier, 1723, et rendu commun pour tout le Royaume par Arrêt du Conseil d'État du 24 Mars, 1744, avec les anciennes ordonnances, edits, déclarations, arrêts, règlemens, et jugemens rendus au sujet de la Librairie et de l'Imprimerie, depuis l'an 1332 jusqu'à présent. 12mo. Paris, 1744.

This is an edition (under the title of Code, &c.) of the Regulations made by the Council of State in 1723 respecting Booksellers and Printers, (but compiled by D'Aguesseau), which were made common to all the kingdom by a decree of the year 1744. The code is divided into sixteen titles, which are subdivided into articles; and each article is compared, &c. with similar provisions made by the ancient ordinances, &c. The decree of 1744 is inserted; and there is a dedication and an index. The titles treat of the privileges and exemptions, &c. of the printers and booksellers; apprentices; assistants; master printers, &c.; printers and booksellers' widows; correctors of the press; typefounders; porters, &c.; booksellers not of Paris (*forains*); the corporation of booksellers and printers, &c.

A list of works containing statutes, laws, &c. affecting corporations of trades, &c. will be found in the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, 2nd vol. (Jurisprudence), p. 330—350.

CORVÉES.

This word meant the right of the lords to require from their *sujets* a certain number of days' work in the year with horses, carts, &c. at their own expense, and for the benefit of the lords. *Corvées* were of two kinds, personal and real. The personal were due from those who dwelt within the limits of a *castellanerie*, and the real were due from the possessors of real property. The clergy and gentlemen were exempt from the personal *corvée*, but not from the real.

MÉMOIRE IMPORTANT SUR L'ADMINISTRATION DES CORVÉES dans la Généralité de Guyenne; par Dupré de Saint-Maur. 4to. (No place), 1784.

A *Mémoire* touching the Administration of the *Corvées* in the Province of Guyenne, by Dupré de Saint-Maur, intendant of Guyenne.

TREATISES.

Courts of Law.

Courts of Law.

There were in France, a short time previously to the Revolution in 1789, the following courts, tribunals, &c.:—

Thirteen parliaments; four sovereign councils, equal to parliaments; twelve chambers of accounts; twelve or more courts of aids; a court of the mint, and several chambers of the mint; several ecclesiastical tribunals; about 800 royal courts, as presidial courts, bailiwicks, &c.; and about 50,000 seigneurial jurisdictions.—For the courts of law in the colonies, see *ante*, pp. 46, 47.

France was divided into nineteen generalities, or *Bureaux des Trésoriers de France*, and thirty-two departments, including the generalities; and 181 *élections*. For the ecclesiastical and military divisions, see *infra*, "Ecclesiastical Law" and "Military Law."

Several of the provinces of France had also states or provincial assemblies, and were called *pays d'états*. See *infra*, "States (Provincial)."

Expilly, in his *Dictionnaire*, article "Paris," enumerates no less than forty-eight courts or jurisdictions, as existing in Paris alone. Five of these courts and jurisdictions were sovereign courts, namely, the parliament of Paris, the grand council, the court of aids, the chamber of accounts, and the court of the mint. Several of these courts were common to other parts of the kingdom. The principal other tribunal at Paris was the *Châtelet*. The chief courts and tribunals in the kingdom will be found noticed in this portion of the Catalogue.

Mémoires sur l'Origine et Institution des Cours Souveraines et Justices Royales, étant dans l'enclos du Palais, &c.; par Pierre de Miraulmont, &c. 8vo. Paris, 1584.

Mémoires on the Origin and Institution of the Sovereign Courts and Royal Jurisdiction within the Precincts of the Palace, &c. This is a work of great authority.

A new edition of it was published in 8vo. Paris, 1612, under the title of *De l'Origine et Etablissement du Parlement et autres Jurisdictions Royales, &c.*

By the term sovereign courts were meant the superior tribunals, which decided *souverainement* and without appeal, on such matters as were within their jurisdiction. Their decisions could only be set aside by the king or his council. (See *infra*, "The Privy Council," p. 207.) These courts were the parliaments and sovereign councils, the grand council, the chambers of accounts, the courts of aids, and the court of the mint.

Within the inclosure of the *palais* sat the following courts:—the sovereign courts (except the grand council, which sat at the Louvre); the *requests* of the *hôtel;* the *bureau* of the treasurers of France; the three courts of the marble table; the *maçonnerie;* the mastership (*maîtrise*) of the waters and forests of Paris; the *Bazoche* and the sovereign empire of Galilee; and some other tribunals. The Châtelet, and the greater part (if not all) of the other tribunals, were out of the *enclos* of the palace.

A list of collections of the decisions and regulations of courts, and of extraordinary commissions, under the titles of *Grands-Jours, Cours de Justice, Chambres de Justice, Chambres de Reformation, Chambres de l'Édit, Chambres Royales, Chambre de la Charité Chrétienne, Chambre Extraordinaire des Vacances, &c.* will

be found in the second volume (Jurisprudence) of the *Catalogue des Livres imprimés du Roi*, pp. 473—479. A great number of them appear to be in MS. In the same volume will also be found a copious list of all the styles of the sovereign courts and the other tribunals.

It may not be improper to give here a short explanation of the meaning of the various kinds or denominations of counsellors, which will be found to occur frequently in the following account of the various courts.

Counsellors (*conseillers*) were royal judges, who ranked next to the presidents of the various courts and tribunals, and were in a manner the council of the presidents. They were either lay or ecclesiastical. The ancient name for these judges was *assessores*. There were various names given to these counsellors, as *conseiller d'honneur*, *conseiller-honoraire*, *conseiller survivancier*, *conseiller en la cour*, and *conseiller-clerc*, the meaning of which terms is as follows:—

A *conseiller d'honneur* was a judge, who by virtue of his rank or title had a right of sitting in a parliament or other court. *Conseillers d'honneur* were of two kinds, namely, *conseillers-nés* and counsellors by letters granted to persons by the king, for that purpose. Of the former kind, the archbishop of Paris had a right to sit in the parliament of Paris as a *conseiller-né*.

A *conseiller-honoraire* was a judge, who, after serving twenty years, had quitted his office, and obtained from the Chancery *lettres de vétérance*, which gave him the right of *entrée* and voting in the courts, and of enjoying the rights and privileges attached to the office of a judge.

A *conseiller survivancier* was a person who, by virtue of the king's grant, succeeded to an office on the death of the individual holding the same, who was generally the father or other near relation of the successor.

A *conseiller en la cour* was a judge in the parliament of Paris.

A *conseiller-clerc* was a clergyman. A *conseiller-clerc* could not vote in judgment in criminal cases, *quia ecclesia abhorret à sanguine*.

The ministers, the secretaries of state, the controller-general of the finances, and the counsellors of state, were styled "counsellors of the king in all his councils."

There were also in the sovereign and presidial court certain other judges, styled *chevaliers d'honneur*. These latter judges sat in ordinary habits, and wore their swords.

The courts of law in France previously to the Revolution in 1789 may be divided into two kinds, namely, the ordinary and the extraordinary.

The ordinary tribunals or jurisdictions were—1. The parliaments and sovereign councils. 2. The presidial courts. 3. The bailiwicks and seneschalsies. 4. The royal *prévôtés* or provostships. 5. And the tribunals or jurisdictions of the *seigneurs*, or lords of fiefs or districts, &c.

The extraordinary courts may be classed under the following eight headings:—1. The grand council and other royal councils, and the jurisdictions belonging to the court. 2. The Châtelet and other tribunals of Paris. 3. The ecclesiastical tribunals. 4. The revenue courts. 5. The courts of the mint. 6. The admiralty and consular jurisdictions. 7. The police tribunals. 8. Miscellaneous jurisdictions.

Nearly all these various courts and tribunals were suppressed by a decree of the National Assembly, dated the 6th and 7th September, 1790. The Hotels-de-Ville, &c. were abolished by a decree of the 14th December, 1789. The

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councils of despatches, finances and commerce were incorporated (in 1789) with the council of state. This latter dissolved itself when royalty was put an end to in 1792. The privy council was suppressed by a law of December, 1790.

Ordinary Tribunals.

1. PARLIAMENTS AND SOVEREIGN COUNCILS.

See *infra*, "PARLIAMENTS."

i. *Sovereign Council of Alsace.*

This council was originally established as a sovereign court in 1679. It sat at first at Ensisheim, and afterwards at Brisac, and was at last settled at Colmar in 1698.

It consisted of a first and second president, two clerical counsellors, *chevaliers d'honneur;* five lay *chevaliers d'honneur;* twenty counsellors, one of whom was the dean, and two of them clergymen, and two honorary counsellors; two advocates-general, an attorney-general, and two substitutes; two chief registrars, a keeper of the records, and other officers.

The council took cognizance in the first instance of the causes of those persons which were formerly referred to the Regency of Austria, as those of *abbés*, priors, ecclesiastical corporations, princes, and *seigneurs*, excepting however matters arising in Lower Alsace, because there was a directory at Strasburg to adjudicate on them.

The officers of the places dependant on the temporalities of the bishopric of Strasburg and those of the county of Nassau were also excepted. Appeals from their decision were brought before their respective regencies.

The sovereign council of Alsace also took cognizance, in the first instance, of all the causes of the officers of its own body, and of those of the officers of the Chancery.

All appeals from the royal judges, as well as from the seigneurial judges, and the town magistrates, and also the appeals (named *comme d'abus*) from the ecclesiastical tribunals of the province, were brought before this council.

There was another minor court of appeal established at Strasburg, named the *Chambre des Treize* (Tribunal of Thirteen). This court heard appeals from the great and small senate for sums not exceeding 1000 livres. For sums exceeding that amount an appeal lay from this tribunal to the superior council.

There were also at Strasburg two courts called the great and the small senate. The former was composed of thirty citizens, with the royal *prévôt* for its president, and took cognizance, in the first instance, of civil matters, and of criminal matters in the last resort. The other tribunal was composed of eighteen judges, and took cognizance of small matters. Appeals from both these tribunals in civil matters lay to the Tribunal of Thirteen.

There were several consistory courts for Protestants in Alsace, which adjudicate matters purely ecclesiastical. They were, however, prohibited from pronouncing sentence of dissolution of marriages.

There also existed at Strasburg a court called the "Directory." It was composed of seven counsellors, selected from the body of the nobility, and took cognizance, in the first instance, of all matters concerning the gentlemen of Lower Alsace and the members of their own body, and, by way of appeal, of all matters concerning the corporations and inhabitants of their dependency, which

had been decided on by the seigneurial judges appointed by the lords of the lands held of the body of the nobility. This court also decided, in the last resort, all causes wherein the matter in dispute did not exceed 500 livres. Appeals for larger sums lay to the superior council of Colmar. There was at one time a similar court for Upper Alsace; but it had ceased to exist some time before the Revolution in 1789.

ii. *Provincial Council of Artois.*

Although this province was within the jurisdiction of the parliament of Paris, in respect of certain civil matters, yet it had a special superior tribunal or council of its own, which was originally established in 1530 by the Emperor Charles V. Count of Artois, and was styled the Council of Artois.

This sovereign council comprised within its jurisdiction the whole province of Artois, and the towns and territories of Dunkirk, Gravelines, and Bourbourg, and included the *gouvernance* of Arras and several royal bailiwicks.

For an account of the several tribunals of this province, see Expilly's Dictionary, articles "Arras" and "Artois."

The council of Artois consisted of two presidents, two *chevaliers d'honneur*, fifteen counsellors, an attorney-general, an advocate-general, and several inferior officers.

The competency of the council and the other tribunals was fixed by a royal declaration, dated in December, 1738. The council decided, in the last resort, all criminal causes, cases concerning the usurpation of titles of nobility, subsidies, and imposts. It also decided, by way of appeal and in the last resort, all matters similar to those which were within the jurisdiction of the court of aids of Paris. It took exclusive cognizance of all the *cas royaux* and *cas privilégiés*, and also, in the first instance, of all causes of cathedrals, bishoprics, abbeys, chapters, priories, commanderies, benefices, and houses of royal foundation. The council also decided, in the last resort, all civil matters *sujettes à estimation*, when they did not exceed in value 2000 livres principal money, or eighty livres of yearly rent. Appeals in other civil matters lay from the decisions of the council to the parliament of Paris. This province was a *pays d'états*.

iii. *Sovereign Council of Roussillon.*

While the province of Roussillon was under the dominion of the kings of Spain, a royal council for the administration of justice existed at Perpignan, the capital of the province. When Roussillon was united to France, a sovereign council was established, which was amended in 1660, after the treaty of the Pyrenees.

The jurisdiction of this parliament comprised the province of Roussillon, and included the *Vigueries* of Rousillon, Cenflans, Pamiers, Capsir, and Cerdaigne.

The council consisted of a first president, two other presidents, two *chevaliers d'honneur*, a clerical counsellor (one of whom, the Bishop of Perpignan, was a counsellor by office), eleven titulary counsellors, a counsellor *survivancier*, four honorary counsellors, namely, the three presidents and counsellors of the Chamber of Domains, and the *juge-visitateur* of the *gabelles;* an attorney-general, two advocates-general and an honorary advocate-general, a chief *greffier*, and other officers.

At certain times the governor of the province, and in his absence the lieute-

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nant-general who commanded, had a seat in this council, and even had the power of presiding over it. .

The council took cognizance, in the first instance (by a commission, consisting of the attorney-general, the two advocates-general, and two counsellors), of matters relating to the royal domains in the province. Appeals lay from their decisions to the council, and those commissioners who had decided such causes could not vote on the appeals.

This council also decided all civil and criminal matters brought before it by way of appeal.

iv. *Superior Council of the Island of Corsica.*

This tribunal was established at Bastia, by virtue of edicts dated in June, 1768, January, 1773, and June, 1773, soon after its cession to France; and it enjoyed the same privileges, &c. as the other sovereign courts. It was the court of appeal from the other tribunals of the island. It took cognizance, in the first instance, of matters relating to the royal forests, and also heard appeals from the decrees or edicts, &c. of the intendant of the island in matters relating to the royal domains and to fiefs, &c. Matters relating to aids, &c. were within the province of the intendant, who was also at the beginning first president of the council. In 1771 the offices of the intendant and first president were separated. From that period the officers of the council were—a first and second president, ten counsellors (six French and four Corsican), an attorney-general and a substitute, an advocate-general, a registrar, two *huissiers*, and two *secrétaires-interprètres*. By letters-patent, dated in 1777, one of these *secrétaires* was attached to the intendancy of the island.

There were also eleven royal courts in the island, which sat at the following places:—Corte, Bastia, Ajaccio, Roglieno, Oletta and Vico, Surtenne, Campo-Cero, Calvi, Bonifacio, Ampugnani.

Each of these courts was composed of a royal judge, an assessor, civil and criminal, a king's attorney, and a registrar. At Bastia there were two assessors.

The royal courts were established by royal edicts, dated in September, 1769; April, 1770; February, 1771, and April, 1772; and a declaration dated in July of the same year.

These courts took cognizance, in the first instance (subject to appeal) of all personal and mixed actions arising within their district and territory. Real actions were brought before the judge of the place where the property lay.

They also took cognizance, in the first instance, of crimes and delicts committed within their jurisdiction.

There were also in the island municipal and *prévôtal* (that is, of the marshalry) jurisdictions, and two admiralty tribunals. There were five bishoprics in the island. Four national juntas were established in four chief places of Corsica, for the purpose of repressing assassinations and robberies.

Before Corsica formed part of the French dominions, the Corsicans were in the habit of managing their general affairs through the medium of a general assembly of the nation, to which the name of *Consulta Generale* was given. By a decree of the council, dated in 1772, this assembly was directed to be continued under the name of the States of Corsica. These states were composed of the three orders (as in France), namely, the nobility, the clergy, and the *tiers-état* or commons. Each order furnished twenty-seven deputies. Corsica was thus a *pays d'états*.

See for the ecclesiastical division of the island and other particulars, the article *Corse*, in the third volume of the *Encyclopédie Méthodique* (Jurisprudence).

2. Presidial Courts.

These courts were established by the edict of 1551, in the great bailiwicks and seneschalships of the kingdom, to decide, in the last resort, on matters (within their jurisdiction), the value of which did not exceed the amount mentioned in the edict of creation. This amount was *au premier chef* 250 livres, and *au second chef* 500 livres. These amounts were raised by an edict of 1774 to 2000 livres *au premier chef*, and 4000 *au second chef*. This *second chef* was abolished in 1777. The last edict concerning the regulation of these courts was dated in 1778.

Those subjects over which the presidial courts had no jurisdiction were causes affecting the domain of the crown, benefices, hospitals, matters *du petit criminel*, of the police, of roads and streets; regulations concerning (between) the king's officers, *separations de biens ou d'habitation*, the status of persons, &c.

The object of the edict of 1551 was the shortening of processes, and to relieve the sovereign courts from a number of trifling appeals.

The presidial courts were generally composed of different chambers, classes or *colonnes* for the administration of justice, namely, a presidial chamber, a chamber of the bailiwick civil, a chamber of the criminal bailiwick, and a police chamber. The judges of these various chambers were ordinarily the same; but the principals were different. The presidents presided over the presidial chamber; the lieutenant-general over that of the civil bailiwick; the *lieutenant-criminel* over that of the criminal bailiwick; and the *lieutenant de police* over the police chamber.

Traité de Jurisprudence des Présidiaux; par Jousse. 12mo. Paris, 1764.

A Treatise on the Practice of the Presidial Courts, by Jousse.

3. Bailiwicks and Seneschalsies.

The jurisdiction of a bailiff (*bailli*) was called a *bailliage*, and that of a seneschal (*seneschal*) a *seneschaussée*. The bailiffs and seneschals were royal judges, and were possessed of equal power and authority. In some places they were called bailiffs, and in others seneschals. It is generally supposed that these judges were at first instituted by the dukes and counts, who, towards the end of the tenth century, looking on themselves as sovereigns of their own fiefs, divided among themselves (as it were) the remnants of the monarchy, and appointed the bailiffs and seneschals to administer justice in their stead. Under the third line of the kings of France, these judges were invested with the power of adjudicating on the *cas royaux* and appeal cases from the jurisdictions of the counts; they also had the power and authority formerly given to the *missi dominici* under the second line of the kings, and finally the same jurisdiction and power as the dukes and counts formerly had. They decided on matters concerning justice, the administration of the finances, and touching arms, within their respective jurisdictions,—and in the last resort. When any cause of importance occurred, the bailiff or seneschal gave notice of it to the king, who had it decided by the parliament of Paris.

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When the parliament of Paris was made stationary in 1302, appeals lay from the decisions of the bailiffs and seneschals to that parliament; and in after times, when other parliaments were created, appeals lay to them from the decisions of the bailiffs and seneschals who were within their jurisdiction.

When offices were become saleable, the bailiffs began to lose their power and authority, which were transferred to their lieutenants or deputies, who were lawyers (*gens de robe*). The bailiffs nevertheless preserved, till the Revolution, various prerogatives—they were looked on as the heads of their districts—justice was administered in their name—the publication of the *ban* and *arrière ban* belonged to them; they had also the privilege of sitting in their court, &c. but not of voting in a cause.

These courts were generally composed of three *lieutenants-généraux*, one for the civil and another for the criminal department, and a third for the police; two particular lieutenants, the one for the civil and the other for the criminal department. These officers were looked on as the heads of the jurisdiction. There appears to have been no fixed number of counsellors in these courts, but the number of them was more considerable where there was a Presidial court. There were also in the great bailiwicks two king's advocates and a king's attorney, and two chief registrars, the one for the civil and the other for the criminal department.

The bailiffs' courts had jurisdiction, both in the first instance and by way of appeal. Their jurisdiction in the first instance extended to matters relating to the *status* of persons, the nobility, the various jurisdictions, *cas royaux* and *cas privilégiés;* delicts committed by the judges; letters of grace, pardons, &c.

As judges of appeal cases, they decided on matters brought before them from the decisions of all the judges within their respective jurisdictions, which did not lie to the parliaments. This regulation had however some exceptions, both in civil and criminal matters.

For further particulars concerning the jurisdiction of these judges, see Ferrière's *Dictionnaire*, article *Baillif*, and *infra*, "JURISDICTION."

4. ROYAL PROVOSTSHIPS.

The *prévôts* or provosts were subordinate to the bailiffs and seneschals, who had the power of dismissing them for acts of injustice, or crimes committed by them.

The royal *prévôts* took cognizance in the first instance, like the other royal judges, of the civil and criminal causes of those persons who were subject to their jurisdiction, and of appeals from the decisions of the *seigneurial* justices of their districts (jurisdiction). They had, however, no power of deciding on the *cas royaux*, the cognizance of those matters belonging to the bailiffs and seneschals; nor on the *cas prévôtaux*, of which the marshals of France took cognizance.

In Provence, Languedoc and Roussillon, these officers were called *Viguiers* (probably a corruption of the Latin word *vicarii*); in Normandy, they were called *vicomtes;* and in other provinces and places, *châtelains*. They had all the same authority and power. The *prévôt* of Paris was accounted the first bailiff in France.

5. THE JURISDICTION (JUSTICE) OF THE SEIGNEURS.

This jurisdiction was divided into three parts or degrees, namely, the *basse-justice*, the *moyenne-justice*, and the *haute-justice*. Some of the *seigneurs* had

only the *basse* or the *moyenne-justice;* but those who had the *moyenne* had also the *basse-justice:* and those who had the *haute-justice* had also the other two. Appeals from the *basse-justice* lay to the *haute-justice*, and those from the *moyenne* were also brought before the *haute-justice*. Besides these three degrees of the *justice seigneuriale*, there existed another kind of justice, styled *censuelle domaniale* or *foncière*, in several *coutumes*, somewhat different from the ordinary *basse-justice*, and not strictly a justice at all.

The competency of these three degrees of the *justice seigneuriale* will be found set forth in the "*Nouveau Coutumier Général*," by Richebourg (see *ante*, p. 26), in the various tables of the different *coutumes*.

TRAITÉ DES JUSTICES DES SEIGNEURS, &c. par Jacquet. 4to. Paris, 1764.

A Treatise on the Jurisdiction of the *Seigneurs*, according to the practice of the different tribunals of the kingdom, by Jacquet, an advocate in the parliament of Paris.—See *infra*, "SEIGNEURIES."

i. *La Haute-Justice.*

This was the highest jurisdiction of the *seigneurs* or lords.

The judges of this part or degree of the seigneurial jurisdiction took cognizance in civil matters of all causes, real, personal or mixed; except those which were reserved for the royal judge, namely, the causes touching the king's domain, or those wherein the king was otherwise concerned—those concerning the *officiers royaux*—cases of *committimus*—cases of cathedral churches, privileged churches, or those of the king's foundation.

With regard to criminal matters, these judges took cognizance of all kinds of delicts or misdemeanors committed within their jurisdiction by persons domiciled therein, and not by strangers or vagabonds.

From this part of the seigneurial jurisdiction were excepted the *cas royaux*, such as high treason, false coining, unlawful meetings, robberies and murders on the highways, and other crimes specially excepted in the ordinance of 1670.

These judges were empowered also to inflict punishments, even that of death; and consequently they could have gaols and gaolers, &c.; but all judgments which inflicted corporal punishments had to be confirmed by the parliaments within whose jurisdiction the territories of the *seigneurs* lay. The judges had police jurisdiction, and also jurisdiction over the roads, streets, &c.

The *seigneur haut-justicier* had also the right of confiscation of property (moveable and immoveable) within his jurisdiction, except in cases of high treason and false coining; and to him accrued all property to which there was no heir, vacant immoveable property, &c.

CODE DES SEIGNEURS HAUTS-JUSTICIERS et Féodaux, par Jean Henriquez, &c. 2 vols. 12mo. Paris, 1780.

The Code of the *Hauts-Justiciers*, &c. by Henriquez.

This is a collection of maxims on the subject, taken from the ordinances, decisions of the courts, the opinions of lawyers, &c.

ii. *La Moyenne-Justice.*

This was the second degree of the seigneurial jurisdiction; it took, in common with the *haute-justice*, cognizance of personal and mixed actions, of matters

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relating to the police, and to weights and measures. In criminal matters this jurisdiction varied according to the different *coutumes*. Some of the *coutumes* empowered these justices to take cognizance only of matters involving a penalty of sixty *sols Parisis;* they had nevertheless the power of arresting criminals found within their territory, of imprisoning them, and detaining them for a day, &c.; and if the delinquency or crime of the prisoner deserved a heavier punishment than a fine of sixty *sols Parisis*, he was to be handed over to the *haut-justicier*, &c. Other *coutumes*, and particularly those of Picardy and Flanders, empowered the judge of the *moyenne justice* to take cognizance of quarrels, &c. wherein blood was shed, provided they were not cases of lying-in-wait, and also of thefts which were not capital.

By other *coutumes* these justices were empowered to take cognizance of all misdemeanors or delicts which incurred the penalty of death, and mutilation of limbs.

The *coutumes* of Anjou, Touraine and Maine, empowered them to take cognizance of larceny cases, even when capital, and of homicide, provided it was not by lying-in-wait.

Authors attribute this variation in jurisdiction to the concessions (differing in the extent of the power granted by the same) of the kings and various lords.

iii. *La Basse-Justice.*

This was the lowest degree of the seigneurial jurisdictions, and therefore designated as above. It took cognizance of *cens* and rents and other dues to the lord, and also of matters in dispute between the vassals, when such matters did not exceed the value of sixty *sous Parisis*. The *sol* or *sou* of Paris was one-third more in value than the *sol* or *sou* of Tours; and on that account, in stipulations as to payments of all kinds, mention was made in which of the two kinds the payment was to be made.

In police matters, and in cases of damage committed by cattle, and of light misdemeanors or delicts, this jurisdiction had power to fine to the amount of ten *sous Parisis*. The judges of this jurisdiction had also the power to arrest criminals within their jurisdiction, and ought to have officers and prisons for that purpose; but it was their duty to convey the prisoners to the *haut-justicier* with the charges, and they had no power to pronounce any sentence.

Appeals from the decisions of the *bas-justiciers* lay to the *hauts-justiciers*.

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1. Royal Councils, &c.

i. *The Grand Council.*

This was a sovereign court, and was established as an ordinary and contentious jurisdiction by Charles VIII., in 1492. Ferrière, in his *Dictionnaire*, article *Grand Conseil*, states that when the parliament of Paris was made stationary, a new court was established, that was called at first the "secret council," and afterwards the "grand council;" and that it was made a contentious jurisdiction by Charles VIII. in 1492.

This court consisted of a first president (besides the chancellor, who was the *président-né* of the court), eight other presidents, and fifty-one counsellors, two advocates-general, an attorney-general and seven substitutes, a chief registrar and other officers. It sat at the Louvre.

This court took cognizance of certain civil and criminal matters, and those relating to benefices; of causes evoked from the parliament of Paris, &c. It took cognizance also of conflicts of judgments given by the sovereign courts, and other conflicts between certain courts, and of appeals from the decisions of the *prévôt* of the king's household. Certain religious orders, as the orders of Malta, Cluny, the Benedictines of the congregation of Saint-Maur, and others, had the privilege of having their causes evoked to the grand council.

ii. *The King's Council.*

This court was of very great antiquity, and followed the king. Its functions appear to have been settled in the reign of King Jean, who ordered that his council should have the exclusive cognizance of matters relating to the government of the state. In process of time, the amount and variety of matters brought before the council compelled the kings to divide it into several departments. In later times the number of these departments was five, namely, the council of state, the council of despatches (*dépêches*), the privy council, the royal council of finances, and the royal council of commerce.

HISTOIRE DU CONSEIL DU ROI, &c. Par Guillard. 4to. Paris, 1718.

A History of the King's Council, from the beginning of the Monarchy till the Death of Louis XIV., by René Guillard, an advocate in the king's councils.

iii. *The Council of State.*

In this council were debated all matters relating to foreign powers, war, peace, &c. It was composed of a small number of persons selected by the king; those who were admitted to it had, in consequence of such admission, the title of "ministers of state;" which title they always bore, even when they ceased to assist in the council. The secretary of state for foreign affairs reported to the king the subject-matter of the deliberations. The decisions of the council were *signés en commandement.* The council generally held its sittings in the king's palace.

iv. *The Council of Despatches.*

This council took cognizance of matters relating to the internal administration of the kingdom. It was composed of the chancellor, four secretaries of state, the members of the council of state, and of other ministers and counsellors of state, whom the king thought proper to admit to it.

This council derived its name from the circumstance of its decisions being at the beginning inclosed in despatches, signed by one of the secretaries of state.

v. *The Privy Council.*

This council took cognizance of appeals from the superior courts of the kingdom, of conflicts as to competency, &c. between the courts, of *évocations*, &c. It also took cognizance of matters in dispute between individuals, when those matters concerned the maintenance of the laws and the judicial order. Before causes were brought before this council, they were examined by commissioners for that purpose.

The chancellor or the keeper of the seals was the *président-né* of this council

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(which is also called the *conseil des parties*): the king was always presumed to be present, and there was always ready for him an arm-chair in the room. This council followed the king's court, but this was dispensed with at times; and on those occasions it was held at the chancellor's. The form of proceeding before this council was determined by a regulation of the 28th June, 1738.

vi. *The Royal Council of Finances.*

In this council were debated all matters relating to the finances and revenues of the state; and in it were decided all causes which concerned the domain, the rights of the crown, the farming of the revenues, &c. There were two assemblies which were considered as forming part of the council of finances; they were called the Great and the Small *Direction.* All contentious matters, which required much discussion, were investigated by these two *directions;* the former took cognizance of the more important affairs, and the latter of those of minor importance. The functions of the *ministère public* were performed by the inspectors-general of the domain, whose duty it was to defend the king's interests.

This council was established in September, 1681, and was composed of the chancellor or the keeper of the seals, one of the heads of the council of finances, and of such counsellors of state as were chosen by the king.

vii. *The Royal Council of Commerce.*

All matters relating to the interior trading or commerce of the country were discussed in this council. It was composed of the chancellor or keeper of the seals, several secretaries of state, and of an unlimited number of counsellors of state.

The matters relating to external trading or commerce were discussed in the office of the secretary of state for maritime affairs, and the judgments were given in his *rapport.* The same formalities were observed in this council as in the council of the *dépêches.*

A commercial council was created by Henri IV. in 1607, which was generally called the *Bureau de Commerce.* After Henri's death it fell into disuse, but was revived under Richelieu. It again fell into disuse after the death of Louis XIII., but was revived by Louis XIV. in 1700, as it existed till the Revolution. Twelve of the principal merchants or traders of the kingdom had the *entrée* in this council; two of them were selected out of the city of Paris, and the other ten (one for each) were selected out of the cities of Rouen, Bordeaux, Lyons, Marseilles, Rochelle, Nantes, St. Malo, Lille, Bayonne and Dunkirk.

This office had to examine the proposals and *mémoires* relating to commerce.

viii. *Committees of the Council.*

Besides the above-named councils, various commissions, both ordinary and extraordinary, were appointed to adjudicate on certain special matters.

There were four *ordinary* officers of the committees of the council, namely, those of the superior and inferior (*grande et petite*) direction of the finances, that of the domain and aids, and the other of the salt tax, and the five large revenue farms (*grosses fermes*).—See *infra*, "TAXES."—And there were sixteen extraordinary committees or commissions for the following objects, namely, 1. For commercial matters; 2. For the alienation of the *domaines réunis;* 3. For pensions, oblations and the *régie* of playing cards; 4. For the *économats*, and for the administration (*régie*) of the property of fugitive persons of the reformed religion.

5. For tolls, &c.; 6. For the payments *en écritures, et comptes en banque;* 7. For the provisions and *dépôts* of provisions for the army; 8. For the trafficking in shares of the India Company; the Canada debts, &c.; 9. For the loans, &c. of the India Company, and the verification of the *droits maritimes;* 10. For auditing the accounts of the corporations of trades of Paris; 11. For the relief of religious houses, &c. of women; 12. For examining the titles as to the duties levied on grain in the markets; 13. For liquidating the debts of the corporations of trades of Paris; 14. For legislating on mortgages, &c.; 15. For the examination of the regular orders; 16. For verifying the accounts, &c. of the royal council of finances.

ix. *The Requests of the King's Hôtel or Household.*

The origin of this jurisdiction appears to have sprung from the custom of the kings of France administering justice at the gates of cities or their palaces, &c. It must not be understood that the kings always administered justice themselves, but rather that they generally commissioned competent persons for that purpose. This jurisdiction was termed in ancient times the *plaids de la porte de l'hôtel du roi.* According to Joinville's account of these *plaids* in the reign of Louis IX., this prince often sent for the litigant parties, and settled all differences between them himself. Philip the Hardy or Bold, by an ordinance of 1285, appointed certain persons to hear and determine the *plaids de la porte.*

These *plaids* appear to have assumed the name of *requêtes* within four years from Philip the Bold's ordinance; for by an ordinance of Philip the Fair (dated in 1289), it was ordered that certain persons of his council should be ready at the accustomed hours, and in a *lieu commun*, to hear the *requêtes* that should be presented to them, &c. From this ordinance it would appear that a different place had been appointed for the hearing of such causes, which place was open to the public.

Miraulmont, in his work intitled *Mémoires sur l'Origine et Institution des Cours Souveraines et Justices Royales, étant dans l'enclos du Palais, &c.* (noticed *ante*, p. 198), mentions an ordinance by Philip the Long, in 1317, which directed that out of the number of those persons who should follow the king for the purpose of deciding on the *requêtes*, there should be constantly at the court a clergyman and a lay person. And about the same time these *plaids* or *requêtes* were called the *requêtes de l'hôtel du roi;* and the judges who had to determine on these matters were called *maîtres des requêtes de l'hôtel du roi.*

This court or jurisdiction was at first ambulatory, and followed the king's court; but it appears to have been finally made stationary at Paris, towards the middle of the fourteenth century; and from that time it was always held within the precincts (*enclos*) of the king's palace.

In the reign of Charles VI., on the occasion of a dispute involving the competency of this jurisdiction, it was declared in certain letters of revocation, dated in 1406, that "the court and jurisdiction of the requests of the household was a great and notable ordinary jurisdiction, established in ancient times, and one of the most notable ordinary jurisdictions in the kingdom next to the parliament, &c." The masters of the requests of the *hôtel* were the only judges in that court.

The other officers of this tribunal were an attorney-general (who had a right

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of assisting at the *sealing*) and an advocate-general, a substitute to the attorney-general, a chief registrar, two other registrars, and six *huissiers*.

The masters of the requests had two kinds of jurisdiction, the one extraordinary and the other ordinary. Their extraordinary jurisdiction extended, first, to causes sent by *arrêt* from the council, and to all the *instances* arising out of the execution of the decrees of the privy council; secondly, to causes concerning the forgery of the seals of the great and *petite* chancery, and to the *instruction du faux incident* in causes pending before the council, when the *moyens du faux* had been declared admissible; thirdly, to claims made by advocates of the council for their fees, and the *desaveux formés contr'eux;* fourthly, to appeals from the *appointmens en ordonnance*, which the masters of the requests gave *pour l'instruction des instances du conseil*, and to appeals from the taxation and seizures for costs, &c., as decided by the council.

When the masters of the requests exercised their extraordinary jurisdiction, their decisions were headed "The masters of the requests, sovereign judges in this cause, &c."

Their ordinary jurisdiction extended also to cases of *committimus* (*au grand et au petit sceau*).

The *commensaux* (commoners) of the royal household, &c. had the privilege of having their causes decided either by this tribunal or that of the *prévôt* of the *hôtel du roi.* —See the next article.

Appeals lay from the decisions of the requests of the *hôtel* (as an extraordinary court) in the same manner as from the sovereign courts: appeals from the decisions of the same court, in its ordinary jurisdiction, were brought before the parliament of Paris.

x. *The Prévôté de France (Grande), ou Prévôté de l'Hôtel du Roi.*

[The Grand *Prévôté*, or the *Prévôté* of the King's Household.]

The grand *prévôt* of France was an officer appointed to decide the causes arising among the persons of the suite of the court.

Miraulmont states that the *prévôt* of the king's household represented the ancient counts of the palace; other authors maintain that his authority was originally the same as that of the grand seneschal, whose office existed even in the times of the counts of the palace.

The serjeants of the king's household had for their head an individual styled the king of the rogues (*roi des ribauds*), whose duty it was to drive away from the court vagabonds, cut-purses, loose women and persons of disreputable character. It was also part of his duty to prevent persons loitering about during dinner and supper-time who were not commoners of the household, and to see that all persons were put out in the evening, except those who were entitled to sleep in the palace, &c. He assisted also in putting into execution the judgments of the bailiff of the palace, who had at that time jurisdiction over the *suite* of the court.—See *infra*, Fauchet's *Origine des Dignités, &c. de France*, heading "Offices."

It was generally one of the *archers* of the *prévôt* of the hotel who was king of the *ribauds;* these archers were suppressed at the time that Louis XI. instituted guards of the *prévôté* of the king's household. His title was derived from the fact, that all libertine fellows and women were called respectively *ribauds* and *ribaudes*. It is stated that the *ribaudes* had to make his "Ribald" majesty's bed during the month of May, in token of his superiority and jurisdiction. It

is stated that this officer continued to bear the above title of king till the time of Charles VI., when the name of *prévôt de l'hôtel* was given to him.

The tribunal of the *prévôté* of the king's household was composed of the grand *prévôt;* two lieutenant-generals (for civil, and criminal and police cases), one of whom served at Paris, and the other followed the court; a king's attorney and a substitute; a registrar and other officers. The *prévôt* had also under his authority an ordinary lieutenant-general *d'épée,* four other lieutenants *d'épée,* twelve captains *exempts,* eighty-eight guards, a marshal of the lodgings, and a trumpeter. A lieutenant and two guards were appointed for the keeper of the seals.

The *prévôté* took cognizance, in the first instance, of the civil causes of those persons who formed the suite of the court, in conformity with the regulations and enactments on that head. Appeals from the decisions of the *prévôté* lay to the grand council.

This tribunal also took cognizance of all criminal and police matters arising among the king's suite. The officers of this jurisdiction had to manage the police department in those places where the court resided. They enjoyed all the privileges which belonged to the commoners (*commensaux*) of the household.

HISTOIRE DE L'ANCIENNE COUR DE JUSTICE, de la Maison de nos Rois, &c.; par C. J. Clos, &c. 4to. Paris, 1790.

History of the ancient Court of Justice of the King's Household, from the beginning of the monarchy till the time when it assumed the name of the *Prévôté de l'Hôtel,* and *Grand Prévôté de France,* and from that time till the present; by Clos, a lieutenant of the *Prévôté de l'Hotel.*

LE PREVOST DE L'HÔTEL, et Grand-Prevost de France, &c.; par Pierre de Miraulmont. 8vo. Paris, 1615.

A Treatise on the *Prévôt* of the Hotel, and the Grand *Prévôté* of France, by De Miraulmont.

LA JURISDICTION DE LA PREVOSTÉ DE L'HÔTEL DU ROI, Grande-Prevosté de France; ou Second Partie du Livre intitulé *Le Prevost de l'Hôtel,* &c. 4to. Paris, 1649.

The Jurisdiction of the *Prévôté* of the King's Hotel, &c., being the second part of the foregoing work.

2. THE CHÂTELET AND THE HÔTEL-DE-VILLE OF PARIS.

i. *The Châtelet.*

The *châtelet* was the court or jurisdiction of the provostship and viscounty of Paris. This court was styled, in an edict of the year 1679, "the first and principal jurisdiction in the kingdom;" it received its name from an ancient castle or fortress; and was formerly called the Great *Châtelet,* to distinguish it from another fortress in Paris called the Little *Châtelet,* which was afterwards used as a prison.

The *Grand Châtelet* was situated to the north of the city, but out of it, and was also called at one time the Fortress of the Great Bridge, because it stood at the foot of a bridge leading into the city. The *Petit Châtelet* was situated

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to the south of the city, but out of it, and stood at the foot of a bridge which led into the city, and was called the *Little Bridge*. The Little *Châtelet* was also at one time called the Fortress of the Little Bridge.

Julian, the proconsul of Gaul, who was afterwards Emperor of Rome, is stated by some authors to have built the above-named *Grand Châtelet*, and to have made it his abode, receiving there the tributes of the provinces of Gaul; and he is also said to have administered justice in this place.

In the time of the Emperor Aurelian, the chief magistrate at Paris was styled the *præfectus urbis;* and in 652 he assumed the name of Count of Paris. The county of Paris was afterwards granted in fee by Charles the *Simple* to Hugh the *Great;* it afterwards reverted to the crown, and was re-granted in fee by Hugh Capet to his brother; and it reverted again to the crown in 1032.

The counts of Paris had under them a provost to administer justice, and they enfeoffed part of the county to others, who were styled viscounts: these latter also had their provosts, who were independent of the others, but ultimately they were re-united to the provostship of Paris. The counts and provosts usually resided in the *châtelet*, and several of the kings administered justice there in person.

It would seem that the *prévôté* of the *marchands* of Paris was at one time separated from the *prévôté* of Paris; it was re-united to it at the close of the fourteenth century, and afterwards again separated from it.

The bailiwick of Paris, or the *conservation* which was established in 1522 for the purpose of watching over the maintenance of the royal privileges of the university, was in 1526 united to the provostship of Paris.

In 1551 the *châtelet* was made a presidial court; and by an edict dated in February, 1674, the bailiwick of the palace was suppressed and confined to the *enclos* of the palace, and all the seigneurial jurisdictions in the city, *fauxbourgs* and *banlieue* of Paris, were suppressed, and a new *châtelet* established.

This new tribunal was united with the old *châtelet* in 1684; so that ultimately the *châtelet* was composed of the following chambers:—1. The *prévôté*, or the *parc civil*, as it was generally called; 2. The presidial chamber; 3. The chamber of the council; 4. The *forains* (that is, the chamber to decide on matters relating to the seizure of property belonging to foreigners or strangers, being debtors); 5. The civil chamber; 6. The criminal chamber; 7. The police chamber; 8. The chamber of the auditors; 9. The king's attorney's chamber; 10. The chamber of the *prévôt* of the isle of France; 11. The chamber of the *lieutenant-criminel de robe courte*; 12. The *parquet* of the *gens du Roi*.

The *châtelet* was composed of the following officers, &c.:—A *prévôt*, a *lieutenant-civil*, a lieutenant-general of police, a *lieutenant-criminel de robe courte*, two particular lieutenants, a *chevalier d'honneur*, sixty-four counsellors, a judge auditor, a king's attorney and eight substitutes, four king's advocates. To these must be added a long list of registers, *huissiers*, jailors and other persons, which will be found set forth in Expilly's *Dictionnaire*, article "*Paris*."

The *prévôté* or the *parc civil* decided on the most important matters that were brought before the *châtelet*. It decided also on questions concerning the *status* of citizens, benefices, disputes as to competency among officers, &c.

The presidial chamber consisted of one of the particular lieutenants and a *colonne* of counsellors. In this chamber were heard verbal appeals from the decisions of the tribunals within the jurisdiction of the *châtelet;* and also the cases which were within the provisions of the edict of 1551 (the edict of the presidials).

The chamber of the council consisted of a particular lieutenant, who was president, and a *colonne* of counsellors. All matters *mises en délibéré*, as well in the *parc civil* as in the presidial chamber, were decided here. And it was here that the *commissaires*, attornies and notaries of the *châtelet* were admitted, after having been examined by the judges.

The civil chamber was held by the *lieutenant-civil* alone, and in his absence by one of his particular lieutenants. Cases relating to the letting of lodgings and other summary causes were decided here.

The court of the *forains* was held in the civil chamber.

The lieutenant-general of police decided on all matters relating to the rights, &c. of the corporations of trades of Paris, and police matters.

The *lieutenant-criminel* alone decided on matters relating to the *petit criminel;* in matters of importance he was assisted by a *colonne* of counsellors.

The *prévôt de l'isle* (*de France*) took cognizance of those crimes which were within the competency of the *prévôt* of the marshals of France.

The *lieutenant-criminel de robe courte* took cognizance (concurrently with, and exclusively of, other jurisdictions) of all crimes committed within the city and suburbs of Paris, which were declared to be *cas prévôtaux* by the *déclaration* of February, 1731.

ii. *The Bureau, or Jurisdiction of the Hôtel-de-ville of Paris.*

An *hôtel-de-ville* was a public place where the town council sat, to deliberate and adjudicate on matters which affected the public interests of the town, and were within the jurisdiction of the council.

The jurisdiction of the mayors, *échevins*, *capitouls*, consuls or other heads of cities and towns, (called *mairies*, *échevinats*, *capitoulats* and *consulats*, &c.,) extended generally to police cases only, and even those were of a limited description. Some of these magistrates, however, took cognizance of criminal matters, as the *capitouls* of Toulouse, the jurats of Bordeaux, Béarn, &c.

With regard to the *hôtel-de-ville* of Paris, it was composed of the provosts of the tradesmen or dealers of Paris, four aldermen, a king's advocate, a king's attorney; a registrar, and ten *huissiers audienciers*, commissaries of police.

This *hôtel* took cognizance, in civil matters, of disputes arising among traders, concerning merchandizes arriving by water; touching the police of the river Seine; the right of taxing certain merchandizes and provisions arriving by water. It took cognizance, in criminal matters, of delicts committed by [merchants or] traders, their clerks and factors, touching the merchandizes, &c. destined for the supply of Paris, and of quarrels arising at the ports or places of landing [at Paris] between the boatmen, &c. of the Seine; in financial matters, of the *rentes constituées sur l'hôtel-de-ville, &c.;* of the disputes which arose respecting the rights of the brokers and *commissionaires* of brandy and other [strong] liquors.

3. Ecclesiastical Tribunals.

i. *The Chambers or Bureaux-Généraux of Tenths.*

These chambers were instituted by an edict of the year 1580, and by other edicts and letters-patent, declarations, &c. between that year and the year 1626. These *bureaux* were established in the following cities:—Paris, Lyons, Toulouse, Bordeaux, Rouen, Tours, Aix, and Bourges. The number and names of the dioceses within the jurisdiction of each *bureau-général* will be found in the *Encyclopédie Méthodique* (Jurisprudence), article "*Bureau.*"

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The members of each of the *bureaux-généraux* were the deputies of the dioceses within its respective jurisdiction, assisted by three counsellors taken from the parliament of the city where it was established; or if there was no parliament in such city, then with the assistance of three counsellors taken from the presidial court of the place.

For the competency of these tribunals, see the *Pratique des Officialités*, vol. 2, part 2, pp. 237—245.

Appeals from the *bureaux-généraux* and the diocesan *bureaux* lay sometimes to the parliament within whose jurisdiction they were, but more generally to the king's council. The council usually referred such appeals to the first general assembly of the clergy.

ii. *The Diocesan Bureaux or Chambers.*

These tribunals were established at the beginning of the seventeenth century. They had the right to fix the contribution that every beneficed person or community ought to pay for the ecclesiastical taxes, ordinary and extraordinary.

Every diocesan tribunal (there being one for every diocese) was composed of the bishop, or, in his absence, of his grand-vicar, the deputies of the vicars (*curés*), *abbés*, regular communities, and secular chapters, and of the diocesan syndic of the clergy.

The general agents of the clergy gave orders for the convocation of the assemblies, to every diocesan syndic. This syndic performed the functions of promoter in each particular diocesan tribunal, and prosecuted causes which regarded religion, the divine service, and the rights, &c. of the diocese which appointed him.

The diocesan *bureaux* decided in some cases without appeal, and in others in the first instance only. They decided in the last resort on contestations respecting the ordinary tenths, which did not exceed twenty *livres* in value, and respecting the extraordinary tenths (*subventions*), when they did not exceed thirty *livres*. For other matters within the jurisdiction of these tribunals, see the *Pratique des Officialités*, vol. 1, part 2, pp. 226—37.

iii. *The Officialties.*

These were the tribunals of the primates, archbishops, bishops, *abbés*, archdeacons and chapters, that had ecclesiastical contentious jurisdiction.

These courts held their sittings in former times at the gates or doors of the churches, and afterwards in the chapels of the bishops' palaces. In later times there were special places appropriated for such purposes in the several cities, &c.; but in some cities, the tribunals sat at the entrance of the episcopal chapel. At Paris the tribunal sat at the entrance of the lower episcopal chapel of Nôtre-Dame.

Each of these tribunals was composed of an official, or vicegerent, and sometimes of several assessors, a registrar, a promoter, and one or several apparitors.

LA VÉRITABLE PRATIQUE Civile et Criminelle des Cours Ecclésiastiques, &c.; par Jean Auboux, Sieur des Vergnes, &c. 4to. Paris, 1688.

The Civil and Criminal Practice of the Ecclesiastical Courts, by the Sieur des Vergnes.

LA PRATIQUE DE LA JURISDICTION ECCLÉSIASTIQUE, volontaire, gracieuse, et contentieuse, fondée sur le droit commun et sur le droit particulier du Royaume, &c.; par M. Ducasse, Prêtre, &c. 4to. Toulouse, 1762.

The Practice of the Ecclesiastical Courts, by Ducasse, a clergyman.

François Ducasse, an eminent canonist, was born in the seventeenth century, and died in 1706.

PRATIQUE DES OFFICIALITÉS, ou Traité de la Jurisdiction de toutes les Cours Ecclésiastiques, suivant les nouvelles Lois du Royaume, &c.; par feu l'Abbé de Brésoles, Docteur de Sorbonne, &c. 2 vols. 4to. Paris, 1781.

A Treatise on the Practice of the Ecclesiastical Courts, by the Abbé Brésoles, a doctor of the Sorbonne.

This work is divided into four parts, which are subdivided into chapters, articles, sections, and paragraphs. There is a preface and indices. The first volume has a collection of forms. The contents of the parts are as follows:—

Part 1 treats of those who have to exercise the contentious jurisdiction. Part 2 treats of the jurisdiction of the ecclesiastical judges in civil matters. Parts 3 and 4 treat of the principles and rules of civil proceedings in the ecclesiastical courts, and of special proceedings.

The ordinance of 1667 is inserted.—See *ante*, p. 19.

LE PARFAIT NOTAIRE APOSTOLIQUE et Procureur des Officialités, contenant les règles et les formes de toutes sortes d'actes ecclésiastiques; par Jean-Louis Brunet, &c. 2 vols. 4to. Lyons, 1775.

An edition, by Durand de Maillane, of Brunet's Perfect Apostolic Notary, &c. consisting of forms in ecclesiastical matters.

Brunet, an eminent canon lawyer and an advocate in the parliament of Paris, was born at Arles in 1688, and died in 1747. He wrote a treatise on *Champarts*, which is printed with the decisions of Drapier on Tithes.—See *infra*, "TITHES," heading "ECCLESIASTICAL LAW."

iv. *Apostolic Chamber of the Abbé of Sainte-Geneviève.*

This was a jurisdiction belonging to the Abbé of Sainte-Geneviève at Paris, he being the official conservator of the apostolic privileges, and deputed by the See of Rome to decide on all matters in dispute between clergymen.

The chamber was much resorted to in ancient times, and appeals from its decisions lay immediately to the Pope; but in later times its power was much lessened, and ultimately its functions consisted in the issuing of monitories, whenever the secular judges directed causes to be brought before the *abbé* of Sainte-Geneviève.

This tribunal consisted of the *abbé*, the chancellor, and a secretary.

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v. " *Barre" of the Chapter of Notre-Dame at Paris.*

This jurisdiction was composed of a bailiff, a procurator fiscal, a *greffier*, and a *huissier*. The bailiff took cognizance, in the first instance, of all civil, criminal and police matters within the extent of the cloister and precincts (*terrein*) of the church of *Notre-Dame*, and even in the interior of the same, and also of all the seigneurial rights depending on the *censive* of the same church. Appeals lay to this tribunal from several jurisdictions in the provinces, which will be found enumerated in Expilly's *Dictionnaire*, article " *Barre du Chapître de Notre-Dame de Paris.*"

vi. *Jurisdiction of the " Chantres" or Chanters.*

The chanters of several cathedrals and chapters had a special jurisdiction over the smaller schools within their dioceses. The chanter of the church of Nôtre-Dame at Paris had this privilege. His jurisdiction comprised the smaller schools of Paris and the *fauxbourgs;* and he had the power of appointing the schoolmasters and mistresses, and of examining them, as he thought proper.

The jurisdiction of the chanters of Nôtre-Dame was composed of a vicegerent, a promoter, a registrar, and a clergyman (*clerc*). All the schoolmasters and mistresses of Paris, and of the *fauxbourgs* and *banlieue* (excepting the schools of the Ursuline nuns), were subject to their jurisdiction.

vii. *Chambers of the Edict.*

These were chambers [of the edicts of pacification] instituted in several of the parliaments to decide, in the last resort, on the causes of Protestants, with the exception of those which were termed *appels comme d'abus.*

Two of those chambers, namely, those of Paris and Rouen, were created in 1598 and 1599, by virtue of the edicts of pacification.

Each of these chambers was composed of a Romish president and six counsellors, two of whom were of the Protestant religion; and Protestants had the right of objecting to any two of them that were not of their religion, without assigning any other reason than that they were not of the Protestant religion. These chambers formed part of the body of the parliaments of Paris and Rouen.

Those Protestants, who were within the jurisdiction of the parliament of Burgundy, had a right to select the chamber of the edict of the parliament of Paris, or that of the parliament of Grenoble, for the trial of their causes. The chambers of the edict of Paris and Rouen were abolished in 1669.

The edicts of pacification were enactments made by several of the French kings (beginning with Charles IX. in 1561), in order to satisfy the Protestants, and to secure to them the free exercise of their religion.

In Henri IV.'s reign was promulgated the most celebrated of these edicts, which was known by the name of the " Edict of Nantes." (See *infra*, " Ecclesiastical Law," article " *Edict of Nantes.*") This important act, which consists of ninety-two articles or clauses, will be found in the 15th volume of the " *Recueil des Anciennes Lois Françaises,*" *&c.* This wise edict was revoked by Louis XIV. by an edict dated in October, 1685. This last edict is generally known by the name of the " Revocation of the Edict of Nantes."

To these chambers are to be added the—

viii. *Chambers of " Mi-parties and Tri-parties."*

These tribunals were established in Guienne, Languedoc, and Dauphiny, the three provinces where the Protestants were most numerous. These chambers

differed from those called the "Chambers of the Edict" only in the number of the Protestant and Romish magistrates that constituted them; there being in the chambers called *Mi-parties* an equal number of Protestants and Romanists, whereas in the chambers called *Tri-parties* there was only one Protestant to two Romish judges.

These chambers were also abolished by the edict revoking the Edict of Nantes.

See *infra*, "ECCLESIASTICAL LAW" and "LIBERTIES OF THE GALLICAN CHURCH."

4. REVENUE OR FINANCE COURTS, &c.

i. *Chambers of Accounts.*

These were sovereign courts established for the purpose of examining and deciding on matters relating to the public revenues and the domains of the crown. There were several of them in various parts of the kingdom, namely, at Paris, Dijon, Pau, Metz, Nancy, Bar-le-Duc, Grenoble, Aix, Montpellier, Blois, Nantes, and Rouen.

Several of these courts were united to the parliaments, and so did not form separate courts, as those of Aix, Pau and Metz: the courts of accounts of Rouen and Montpellier were united to the courts of aids in those cities.

The Paris Chamber of Accounts was established in the reign of Louis IX., if not much earlier, and was re-established in the reign of Philippe-le-Bel. This chamber was the oldest in the kingdom, and is stated by some authors to have been made stationary at Paris by Louis IX. Other authors maintain that it was made stationary in that city by Philippe-le-Bel, at the same time that he appointed the parliament of Paris to be stationary there.

It was composed of a first president and twelve others, seventy-eight masters (of accounts), thirty-eight correctors, eighty-two auditors, an advocate-general, an attorney-general and a substitute, two chief registrars, and various other officers.

The chamber at Paris took cognizance of the king's ordinary and extraordinary expenses. In it were examined and registered all the king's edicts and declarations concerning his domains and finances. This court also examined and registered the letters creating nobility, letters of naturalization, legitimation, mortmain, and gifts and pensions. The appanages of the *enfans de France*, the marriages of the king and his children, the alienation of the king's domains (which alienation could only properly take place in respect of the grant of appanages and the necessities of the state), were registered in this court. It also registered the oaths of fealty taken by the archbishops, bishops and royal abbots, as also the oaths of the heads of those orders that were subject to the *régale*. The income of ecclesiastical benefices, &c. belonged to the king till the day of the registry of the oaths, when they were usually remitted. The accounts of the royal treasury, of the king's household, and of all the officers that were accountable, were examined here.

This chamber also received the fealty and homage of the vassals of principalities, duchies, peerages, marquisates, counties, vicounties, baronies and *châtellenies*, and might receive the same from all the fiefs held of the crown. Here were registered declarations of war, treaties of peace, reunions and alienations of domains, acts of naturalization, legitimation, gifts, pensions, gratifica-

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tions, and generally all letters of grace; besides the creation of duchies, &c. and high courts of justice; also ennoblements, confirmations and restorations of nobility, &c. The titles also of the nobility were to be verified by this chamber. The king's children (*enfans de France*) had a right to set up a chamber of accounts in the principal place of their appanages, &c.

The other chambers of accounts sent yearly to the chamber at Paris duplicates of the accounts of their proviuces. These chambers might also register (*entériner*) letters of legitimation and naturalization within their respective jurisdictions.

ORDONNANCES, &c. concernant l'Autorité, &c. de la Chambre des Comptes, &c. 3 vols. 4to. Paris, 1726—8.

A Collection of Laws concerning the Authority, &c. of the Chamber of Accounts at Paris, by Gosset, an auditor of accounts.

DISSERTATION historique et critique sur la Chambre des Comptes en général, &c.; par Jean-Louis le Chanteur. 4to. Paris, 1765.

A Dissertation on the Chamber of Accounts, the Origin, Functions, &c. of its Officers, by Le Chanteur.

Jean-Louis le Chanteur, a *conseiller-auditeur* (judge-auditor) in the chamber of accounts at Paris, was born about the year 1718, and died in 1766.

A list of enactments and works on this subject will be found in the 3rd volume of Lelong's *Bibliothèque*, pp. 287—92.

ii. *Bureaux of the Finances or of the Treasurers of France.*

The term "finances" comprised, generally speaking, the whole of the revenues of the country, which were divided into ordinary and extraordinary: the ordinary included the income or produce of the royal domains; the extraordinary included the *aides* (duties and excise), the *taille* (property-tax payable by the commoners), the *gabelle* (salt-tax), and other impositions. The *bureaux* of the finances were tribunals established in the different generalities of the kingdom, which took cognizance of all matters relating to the king's domains, the *voirie* (roads, &c.) and the finances. The magistrates composing this tribunal were called the "treasurers of France, generals of the finances, and *grands voyers*." Des Essarts deduces the origin of the term "treasurers of the finances," from the fact that, in the early times of the monarchy, the whole of the king's property consisted in his domains, which were called "the king's treasury" (*trésor du roi*), and that the income or produce derived therefrom was deposited in a place which was also called "the king's treasury," of which these officers were appointed the keepers and managers.

The treasury was placed in the Temple, in the reign of Philippe-Auguste. One of the knights of the Temple had the special guardianship of the treasury, and he gave the receipts to the *prévôts* and those official persons who were accountable for monies received by them on account of the public revenues.

When the chamber of accounts, which was before ambulatory, was made stationary at Paris, the treasurers of France, and the officers of the mint, were

formed into one body. There existed, in the ancient building of the chamber of accounts at Paris (which was burnt in 1737), a chamber of the treasury where the treasurers of France held their office.

The king's treasury was transferred to the Temple in 1302; it was afterwards placed in the Louvre, and at a later period it was deposited in the palace.

In ancient times the bailiffs and seneschals had to perform the duty of receiving and administering the king's domains; but in after times this part of their duty devolved to particular receivers, who sent the money received by them, on account of the domains, to the *changeurs du trésor*.

When Henri II. was desirous, in 1551, of forming into one body the treasurers of France and the generals of the finances, he ordered that there should be in each of the seventeen general-receiverships of the kingdom, one treasurer of France, general of the finances; he afterwards divided the office into two.

It was in the reign of this king that the treasurers of France were constituted a body of magistrates.

The *bureaux* of the finances were in the later times of the monarchy composed of official and other presidents, and filled by the senior treasurers of France. They were also composed of a king's attorney and advocate, a certain number of counsellors and a registrar. Some of the *bureaux* had in addition a *chevalier d'honneur*.

The competency of these tribunals has been already partly mentioned. They had also to watch over the conservation of the king's domains and revenue. They received the fealty and homage, &c. of those lands (not titled) which were held by tenure of the king. They took securities from the accountants within their respective generalities, and sent the certificates or acts of the same to the chamber of accounts. They had also to attend to the repairs of the buildings within the royal domains, and the repairs of the high-roads, &c.

TRAITÉ DE LA JURISDICTION DES TRÉSORIERS DE FRANCE, par Jousse. 2 vols. 12mo. Paris, 1778.

A Treatise on the Jurisdiction of the Treasurers of France, by Jousse.

L'ÉTAT VÉRITABLE DES TRÉSORIERS DE FRANCE. 4to. Amsterdam (Paris), 1779.

On the Treasurers of France.—See *infra*, p. 221.

iii. *Courts of Aids.*

These were sovereign courts which decided on matters both civil and criminal relating to the *aides*, as the *gabelle*, the *tailles*, the duties on merchandises, wines, beer, levies of money, &c.

The Court of Aids of Paris dated from about the year 1355. There were five courts of aids, one at Paris, one at Montpellier, one at Bordeaux, one at Clermont, and the fifth at Montauban. There were also other courts of aids which were united to the various parliaments or to the chambers of accounts in the provinces, as those of Dijon, Nancy, Grenoble, Aix, Pau, Rennes, Rouen, &c.; so that there were in all twelve or more courts of aids in the kingdom.

The Court of Aids at Paris was composed of three chambers, and consisted

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of a first president, nine others, several honorary counsellors, fifty-two other counsellors, three advocates-general, an attorney-general and four substitutes, two chief registrars, five king's secretaries and other officers. The first chamber was composed of the first president and three others, several honorary counsellors and eighteen other counsellors. The second and third chambers had each three presidents and seventeen counsellors. This court had a chamber of vacations; it sat in the first chamber, and took cognizance of summary or provisional and also criminal cases, and of those causes wherein the king was interested. It was composed of two presidents and fifteen counsellors, that is to say, five from each of the chambers.

The Court of Aids at Paris had alone the right of taking cognizance of the titles of nobility, and of usurpations of such titles. It also verified all letters of creation of nobility and of rehabilitation, and took cognizance of the exemptions and privileges of the nobility and clergy in respect of aids, *tailles*, the *gabelle*, and other imposts.

This court had also alone the right of verifying the accounts of the king's household, the queen's, and those of the *enfans de France*, &c. and the first prince of the blood. These verifications were deposited in the archives of the court. The Court of Aids at Paris took cognizance in the first instance of all causes concerning the sale of the property of those who were accountable to the king, as the receivers of his revenues, &c. and their descendants, in whatever part of the king's dominions their property might be; because the property of such persons could not be freed from the king's claim (*hypothèque*), except by a decision of this court. Executions on the real property of these persons issued out of this court.

All noblemen who were *troublés* in respect of their nobility might have recourse, in the first instance, to this court. It had also some other special attributes, and the magistrates of it were *commensaux* of the king's household. The first chamber took cognizance of all verbal appeals from the decisions of the tribunals within the jurisdiction of the court, &c.; and also of all appeals from the decisions of the judges of the Clermontois respecting aids, the salt-tax and other imposts, &c. This chamber took cognizance also, in the first instance, of the affairs of the Hotêl-Dieu of Paris, &c. respecting their privileges and exemptions from aids, &c. The ordinances, edicts, declarations, letters-patent, letters of creations of nobility and others, were registered in this chamber; general laws were, however, registered in the assembly of the chambers. With respect to the courts of aids generally, they heard appeals from the decisions of the *élections*, the *greniers à sel*, the judges of the salt *dépôts*, the judges of the *traites* or the masters of the ports, the judges of the *marques de fer*, &c. These courts had also, like other sovereign courts, the right to make regulations for the government of their own corps, &c.; and they also had the power of correcting their own officers, and the treasurers, receivers, collectors and clerks, in respect of the duties which they had to perform.

The principal subordinate tribunals, from which appeals lay to the courts of aids, were the *élections*, the *greniers à sel*, and the *bureaux des traites*.

MÉMOIRES POUR SERVIR À L'HISTOIRE DE LA COUR DES AIDES, DEPUIS LE RÈGNE DE PHILIPPE LE BEL, jusqu'en

1789, par Dionis, Doyen de la Cour des Aides. 4to. Paris, 1792.

An Account of the Court of Aids at Paris, from the Reign of Philippe the Fair till the year 1789, by Dionis, Dean of the Court of Aids at Paris.

Nouveau Recueil des Édits, Ordonnances et Arrêts de l'Autorité, &c. de la Cour des Aides de Paris, de Rouen, de Montferrand et Montpellier, &c. par Corbin. 4to. Paris, 1623.

A Collection of Edicts, Ordinances, &c. concerning the Courts of Aids at Paris, Rouen, Montferrand and Montpellier, by Corbin.

A list of enactments and works on this subject will be found in the third volume of Lelong's *Bibliothèque*, pp. 293, 294.

iv. *Generalities.*

These were the offices of the Treasurers of France, which were established for the receipt of taxes (*tailles et taillons*) and subsistence money.

There were twenty generalities in the *pays d'élection*. There were six other generalities in the *pays d'états* (provinces which had states composed of the three orders of the people), namely, Brittany, Aix in Provence, Toulouse, and Montpellier in Languedoc, Burgundy, and Franche-Comté; and six in what were termed the conquered countries, namely, Roussillon, Metz, Alsace, Flanders, Hainault and Maubeuge, and Lorraine.

Each generality was formed of several elections, which latter comprised a certain number of parishes. There was also in each generality an intendant, sent by the king to take cognizance of judicial, financial, and other matters concerning the interest of the king and the public in the place to which he was sent. The generalities of Toulouse and Montpellier had but one intendant for both. The number of the intendants for the whole of France was thirty-two.

Every generality had two receivers-general of the finances, to receive from the hands of the receivers of the *tailles* the money remitted to them by the collectors, and to send the money, when thus received, to the royal treasury.

See *ante*, "*Bureaux of the Finances;*" and *infra*, "*Intendants of Generalities*" and "*Élections.*"

v. *Intendants of Generalities and Provinces or Departments of the Kingdom.*

These were officers appointed in the different provinces to watch over the administration of justice, finance, &c. They were called "intendants of justice, policy, and finance, and *commissaires départis* in the generalities of the kingdom for the purpose of carrying the king's orders into effect."

The intendants resided in the principal city or town within their department, but were obliged to make a tour in the other chief places within their jurisdiction. The intendants were generally chosen from among the masters of the requests. The principal part of their duty consisted in the assessment of the *tailles*. They also made assessments for the repairs of churches, &c. They continued in office three years. Appeals from their decisions lay, in certain cases, to the parliament of Paris; in others, to the court of aids (when they

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related to taxes, &c.); and in others, to the king's council. It was also usual to refer cases to the ordinary tribunals, instead of referring them to the decisions of the intendants.

vi. *Élections.*

The name of *élections* was given to certain tribunals which decided, in the first instance, on the greater part of the cases of which the courts of aids took cognizance, by way of appeal. The officers who had this jurisdiction were called "*Élus*," because in former times those who had the management (*direction*) of the aids were so called.

There were 181 *élections* in France, which were distributed among the following provinces and generalities (which were termed *pays d'élections*):—Paris, Amiens and Artois, Soissons, Orleans, Bourges, Moulins, Lyons, Riom, Poitiers, Rochelle, Limoges, Bordeaux, Tours, Pau and Auch, Montauban, Champagne, Grenoble, Alençon, Rouen, and Caen.

Each *élection* was composed of two presidents, a deputy, an assessor, and several counsellors, a king's attorney, a registrar, several attornies, and *huissiers*. The number of the counsellors varied in the different *élections*. There were twenty in that of Paris. They had various privileges, as exemption from the land or property-tax, called "*taille*," and the billeting of soldiers, &c.

Their jurisdiction extended to matters relating to the *tailles*, aids and other imposts or subsidies, and to stamped paper or parchment. They also decided on the *affaires contentieuses* relating to the farming of tobacco and the *octrois* of towns, both civil and criminal. They took cognizance also of the privileges and exemptions of noblemen or gentlemen, clergymen, the king's secretaries, the *commensaux*, &c. and of every other privilege in relation to the king's rights; and if the nobility of the one and the privileges of the others were incidentally attacked, it was the *élus* that decided on such matters, their decisions being nevertheless liable to be appealed from. They also decided, in the last resort, on matters not exceeding thirty *livres*, and on cases of fraud brought by the farmers of the revenue, wherein the demand did not exceed a *muid* of brandy, &c., and where the fine did not exceed fifty *livres*. They had also the exclusive right of affixing their seal (*apposer le scellé*), at the request of the farmers of the revenue, on the effects of those who were indebted for duties, &c., in case of death, absence, or bankruptcy.

The *élus* took cognizance (criminally) of offences against the tax collectors and others.

See in the preceding page, "*Generalities*" and "*Intendants of Generalities*," *&c.*

vii. *Greniers à Sel.*

Greniers à sel were salt granaries, where the salt sold by the king to the people was deposited, and also distributed. They were established in all the chief cities of the kingdom.

To these granaries or deposits tribunals were appropriated, which took cognizance, in the first instance, of matters relating to the *gabelle* (salt-tax), the distribution of the salt, the king's dues in respect of the same, the *faux-saunage* (dealing in contraband salt), the quantity required within the respective jurisdictions, the weights and measures of the salt, its price, &c.

There were two kinds of *greniers à sel;* one for voluntary sales, and the other (*d'impôts*) for forced sales. The former were those places where people bought what salt they thought they might want; the other, where they were obliged to take every year a certain quantity, under the penalty of being charged with the crime of *faux-saunage.*

Each of these tribunals (except that at Paris) consisted of a president, a granary-keeper, a controller, a king's attorney, and a registrar. Ferrière, in his *Dictionnaire de Droit,* article *Grenetiers,* makes the number of these officers greater than is mentioned here.

The tribunal at Paris was divided into two *exercises,* which performed their functions alternately in the year. Each *exercise* was composed of a president, a granary-keeper, an alternate controller and a deputy, a controller, *garde des mesures,* a king's attorney, two king's advocates, a registrar, a chief *huissier,* a receiver, and several inspectors.

Appeals from these tribunals lay to the several courts of aids.

5. Jurisdiction of the Mint.

i. *Court of the Mint.*

This was a sovereign court, which appears to have been first constituted as such in 1551. Its jurisdiction extended over matters relating to the coinage, the malversations of the masters, dyers, assayers and other officers and workmen of the mint; and over gold and silver wire-drawers, goldsmiths, jewellers, clockmakers, and others who used gold and silver in their trades, &c. Persons using laboratories for the fusion of metals, and workmen who manufactured vessels, &c. for the casting of metals, were subject to this jurisdiction, and were obliged to take out licences for carrying on their trade.

This tribunal had the power of inflicting punishments (even extending to the penalty of death) on coiners, &c. It enjoyed also the privilege of the *committimus,* the right of *franc salé* (the exemption from the *gabelle*), and the other privileges incidental to the other sovereign courts. The members of this court took precedence (in public ceremonies) immediately after the members of the court of aids: they were nobles in the first degree, like those of the other sovereign courts.

The standard of French money was deposited in the court of the mint, where it was preserved previously to the Revolution in 1789, in a box or chest with three locks. By this standard all the other weights of the kingdom were regulated. The verification of the standard used to be made in the presence of the president and the *généraux* of the mint. A verification took place in 1756.

By the last edict regulating the number of the members of this court, dated in 1778, the court was composed of a first president, thirty counsellors, two advocates-general, an attorney-general, a chief registrar, two substitutes, a king's secretary, and other officers, &c.

Traité de la Cour des Monnaies, &c.; par Germain Constans. Fol. Paris, 1658.

A Treatise on the Court of the Mint, by Constans.

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TRAITÉ DES MONNAIES, et de la Jurisdiction de la Cour des Monnaies, &c.; par Abot de Bazinghen. 2 vols. 4to. Paris, 1764.

A Treatise on the Mint, &c. and the Jurisdiction of the Court of the Mint, by De Bazinghen.

CODE DES MONNOYEURS. 12mo. Rouen, 1720.

The Code of the Workers at the Mint. This is a collection of the privileges, &c. enjoyed by them.

A list of enactments and works on this subject will be found in the third volume of Lelong's *Bibliothèque*, pp. 294—302.

ii. *Other Tribunals of the Mint.*

These tribunals were established in the different cities of the kingdom, and were empowered to take cognizance, in the first instance, of all matters relating to the coin, gold and silver, the moneyers, and workers in gold and silver.

These tribunals were composed of the *général provincial subsidiaire*, in whose department this jurisdiction existed; two *juges-gardes* (who in the absence of the *général provincial*, and concurrently with him, took cognizance of the same matters as he did); a controller *centre-garde*, who performed the functions of the judges in their absence; a keeper of the seal (*garde scel*), a king's advocate and a king's attorney, a registrar, a chief *huissier*, and two others.

The office of *juges-gardes* was very ancient. In later times the functions and jurisdiction, which were formerly enjoyed by the *gardes* and provosts of the mint, were united in the persons of the *juges-gardes*.

6. THE ADMIRALTY AND CONSULAR JURISDICTIONS.

i. *The Admiralty Court.*

This jurisdiction extended over matters relating to the marine and to maritime commerce, both civil and criminal. Admiralty tribunals, both general and particular, were established in all the sea-port towns of France. Appeals from the particular tribunals were brought before the general tribunals, and from them to the parliaments within whose jurisdictions they lay. Justice was administered in the name of the admiral; and he had the right of appointing all the officers of the general and special courts of admiralty; and captains of merchant vessels, &c. had to obtain their licenses, passports, &c. from this court.

Before the seventeenth century the admirals had no contentious jurisdiction, it belonged to their lieutenants or deputies, who were lawyers; but in 1626, Cardinal Richelieu assumed the title of "*grand maître et superintendant du commerce et de la navigation*," instead of the title of admiral, which was then suppressed, and took on himself to decide *souverainement* on all questions relating to maritime matters, including cases of prize law and wrecks, &c. In 1669, the office of superintendant-general, &c. was put an end to; and the office of admiral was revived in the same year, in favour of the Count of Vermandois, with the title of officer of the crown.

The office of admiral existed in former times, in the maritime provinces of the kingdom. And Normandy, Brittany, Guyenne, Languedoc and Provence, while under the rule of their dukes or counts, had their own particular admiralty

courts, some of which even existed (as some authors affirm), after the re-union of the provinces to the crown.

The Duke of Guise, in 1626, called himself admiral of Provence.

In Brittany the office of admiral was joined to that of governor of the province; and on that account Louis XIV. gave the government of Brittany to the Count of Toulouse, in order that the office of the admiralty of Brittany might be united to that of admiral of France.

The principal admiralty court of France was that which was established at Paris; it was composed of the admiral of France, who was the head of the court, a lieutenant-general, civil and criminal, six counsellors, a king's attorney, a substitute, a registrar and seven *huissiers*.

Each of the other admiralty tribunals was composed of a lieutenant-general, a king's attorney, a registrar, and one or more *huissiers*.

The judges of the admiralty tribunals took cognizance not only of civil causes relating to navigation and maritime commerce, but also of delicts committed by sea-faring persons.

ii. *Council for Prizes.*

This was a commission issued by the king in war time, to adjudicate in the first instance on prize cases. It was composed of the admiral, several counsellors of state, several masters of the requests, the secretary-general of the marine and a registrar.

This council held its sittings at the admiral's hotel.

The *instruction* of the causes was entrusted to advocates attached to the council.

iii. *Provostship of the Marine.*

The maritime provosts were officers that were appointed in the chief sea-port towns of the kingdom, whose duty it was to watch over the execution of the ordinances concerning the marine, and to institute proceedings against deserters, &c., each of them having under him a deputy, an *exempt*, a king's provost, a registrar and several *archers*. By an edict dated in 1704, provostships were established in the ports of Brest, Rochefort, Marseilles, Dunkirk, Havre, Port-Louis and Bayonne.

iv. *Jurisdiction of French Consuls in Foreign Countries.*

The consuls were judges appointed in the Dardanelles, and in the sea-ports of Barbary and other parts of Africa, and also in other countries, to decide on matters in dispute between the French merchants trading to or resident in such parts, as well as those between the crews of the merchant vessels; they had no authority to decide on disputes between Frenchmen and foreigners.

Des Essarts, on the authority of Ducange, states that the Greek emperors in the thirteenth century granted to some merchants of Narbonne trading in their dominions the privilege of choosing consuls, for the purpose of adjudicating on such differences as might arise among them.

To each consular jurisdiction there was attached a chancellor (who performed the functions of a registrar), and also several *huissiers* and serjeants.

In civil matters, the decisions of the consuls were executed provisionally, the party condemned giving bail. Appeals from the decisions of the consuls of the Dardanelles, and the coasts of Africa and Barbary, were brought before the par-

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liament of Aix; and those from the consuls who resided in other parts, to the parliament which was nearest to the place where the decisions were given.

With regard to criminal matters, the consuls had the power of deciding in the last resort, except in cases where corporal punishments (*peines afflictives*) were to be awarded. When such punishments were to be inflicted, the consuls were bound to send the papers concerning the proceedings, together with the prisoner or delinquent, by the first vessel that should sail to France, where the matter was to be decided at the first port at which the vessel might arrive.

It would seem, that both in civil and criminal matters, it was necessary that the judgments should be delivered in the presence of some of the deputies of the nation, and of two or more notable merchants. The consuls were also to conform to the treaties made with the powers in whose dominions they resided.

The consuls had the power, with the countenance of the deputies, to send away any Frenchman who misbehaved himself, &c.

They had also to direct inventories to be made of the property of persons who died without heirs, and also of property saved from shipwrecks. All acts in foreign countries, which were certified by the French consuls, were received as evidence in France.

v. *Jurisdiction of the Consuls (Juges-Consuls) in France.*

These magistrates were distinct from the consuls that formed the subject of the preceding article; they were merchants or tradesmen, chosen to decide on causes in dispute between traders relating to commercial matters. They held their courts in several cities in France, which were entitled to have such jurisdiction. The number of the consuls forming any one court was five, one of whom was styled "judge," and the others "consuls." They were also generally called "*juges-consuls*", and their jurisdiction "*la justice consulaire.*"

The name of consuls was also given to the principal officers of some towns or cities in the southern parts of France, who had the management of the property of the commonalty, like the *échevins* in other places.

Henri II. is said to have been the first who instituted the consular jurisdiction in France, by the establishment of a tribunal for that purpose at Toulouse, in 1549. He also established in that city an exchange like that at Lyons, to which city the fairs of Champagne had been transferred; and the inhabitants were empowered to choose from among themselves a chief or head (*prieur*) and two consuls, who were to decide in the first instance on all matters in dispute between the traders, &c. at Toulouse, touching merchandises, fairs, and assurances; for the deciding of which matters the *prieur* and consuls were empowered to summon such persons as they might think fit. They had no power to decide on matters foreign to commercial transactions.

Henri II. also established a *place commune* or exchange at Rouen, and granted it the same privileges as had been granted by him to the Toulouse Exchange; and he empowered the traders of the city to assemble every year with the foreign traders, and to choose a *prieur* and two consuls.

A consular jurisdiction was instituted at Paris by Charles IX. in 1563, which consisted of a judge and four consuls, to be chosen from among the traders. He also created some time afterwards similar jurisdictions in the large cities, as Rouen, Bordeaux, Tours, Orleans, &c.; and in several of the towns, where there was a great number of tradesmen, other consular jurisdictions were established in after times.

The consular jurisdiction at Paris consisted of a judge, four consuls, three chief registrars, five registrars *primitifs*, and four *huissiers-audienciers*.

All parties had the right of appearing personally in their own defence, or of employing certain officers, who were called *aggrégés par MM. les Consuls*, &c. The number of these officers was eleven.

7. The Police Chambers.

These tribunals were instituted by Louis XIV., to take cognizance of all matters relating to the interior policy of the kingdom. Formerly the police was not separated from the administration of the civil and criminal laws; but in 1667, Louis XIV. appointed a lieutenant-general of police for the city of Paris; and his jurisdiction became the head police establishment in the kingdom.

This lieutenant-general sat alone on the bench, and gave two kinds of audiences on different days,—the one concerning quarrels, injuries and other ordinary matters (styled *la petite police*), and the other touching matters affecting the public tranquillity, &c. and styled *la grande police*.

In 1669, the appointment of *lieutenant de police* took place in all the cities in the kingdom where there was a royal jurisdiction, which gave rise to the establishment of a police tribunal in the same cities. Appeals from these tribunals lay to the several parliaments in whose jurisdictions they might be.

8. Miscellaneous Jurisdictions.

i. *Chancery of France, or the Grande Chancellerie.*

A chancery was a place where certain letters were sealed with the prince's seal, to make them authentic. There were civil and ecclesiastical chanceries.

The grand chancery was the place where the chancellor gave audience to such persons as had business to transact with him, and where he performed part of his duties. In this place were sealed all the letters, &c. with the great seal of the king, when the chancellor was keeper of the seals. The term "grand chancery" was applied to this court, in contradistinction to the small chanceries (*petites chancelleries*), which were established in the various parliaments, sovereign councils and presidial courts.

The chancellor was the head of the law, and of all the king's councils; and he had the power of presiding, when he pleased, over the parliaments and other courts. He had to draw up all the royal ordinances, edicts, &c. He had also (as keeper of the seals) the appointment of all the offices in the several chanceries of the kingdom. The queens of France had also their chancellor. The earliest mention of a chancellor or referendary is in the reign of Clovis: the officer (so styled) holding that office was named Aurelianus, probably a Roman.

See the articles "*Chancelier*," and "*Chancellerie*," in the *Encyclopédie Méthodique* (Jurisprudence).

Histoire Chronologique de la Grande Chancellerie de France, &c. Par Abraham Tessereau, escuyer, &c. 2 vols. fol. Paris, 1676-9.

The Chronological History of the Grand Chancery of France, by Tessereau, a *conseiller-secrétaire* of the king, &c.

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The work is divided into four books, and contains numerous edicts, &c. on the subject. There is a dedication, and two indices.

ii. *Council of the Chancery.*

This council decided on matters relating to bookselling and printing. It also granted letters of indemnification in cases of lapse of time; and was the *bureau* for the sale of offices *vendus au sceau* (*l'on y faisait la distribution du prix des offices vendus au sceau*). Contraventions of the regulations of the Chancery underwent an examination in a particular office, and the chancellor decided on the report which the commissaries made to him at a meeting at his house. The chancellor was the *président-né* of the council of the chancery.

iii. *Sovereign Chambers of the Waters and Forests.*

These tribunals, which were established in different courts, exercised the same jurisdiction as the *Tables de Marbre* had in some of the parliaments to which they were attached. See the next article.

iv. *The Marble Table* (*Table de Marbre*).

The name of the "MARBLE TABLE" is derived from the following circumstance, that in former times the constable, the admiral and the grand master of the waters and forests (*eaux et forêts*) held their several courts in the *grand' salle* of the palace, in which there was a very large marble table. This table also served for the royal banquets. Du Tillet mentions a royal supper that was served up in this hall, on the "Marble Table," on the occasion of Henri II.'s entry into Paris in June, 1549. This very table was burnt in the great fire which happened at the *palais* in 1618.

Besides this table, there was also in the court of the *palais* a *pierre de marbre*, which was sometimes called the "marble table." It stood at the foot of the great staircase of the *palais*, and public proclamations were made thereat.

When, however, the term "marble table" was used generally, it was to be understood as meaning the court of the waters and forests, which held its sittings in the *grand' salle* before mentioned. This court decided on appeals brought from the *maîtrises* (masterships) of the waters and forests within its jurisdiction.

The *commissaires* of the parliament of Paris also decided in this court on matters relating to *la réformation*. Several other parliaments, besides the parliament of Paris, had also their "marble tables," and their competency was limited to the "waters and forests;" they were on the same plan as that of the parliament of Paris.

In 1704, these "marble tables" were put an end to by Louis XIV., who established, in their stead, a *chambre de réformation* of the waters and forests in every parliament; but in after times several of them were restored, or rather re-established.

v. *Les Maîtrises des Eaux et Forêts.*

(The Masterships of the Waters and Forests.)

These were jurisdictions that took cognizance of every thing relating to the waters and forests; the officers of these jurisdictions succeeded the *baillis* and seneschals in this matter.

The mastership of the waters and forests at Paris was composed of a master,

a deputy, a *garde-marteau*, a king's attorney, a registrar, a registrar's clerk, a first *huissier*, a *huissier-audiencier*, and several other officers, &c.

The other masterships were composed of a master, a deputy, a king's attorney, a *garde-marteau*, a registrar, a surveyor, and a certain number of *sergents à garde*. The number of the officers varied at different times.

These places or offices were in former times not saleable, till the promulgation of the edict of 1544. See the article "*Table de Marbre.*"

vi. *Constabulary and Marshalsea.*

This was a jurisdiction which formerly belonged to the constable and the marshals of France. In later times it belonged exclusively to the latter.

Miraulmont says that formerly the constable exercised his office in the king's court or suite, and that he, as well as the marshals, had provosts, who were empowered to try, in war time and in the camp, all persons accused as vagabonds and as having no fixed abode. He adds that, when the parliament became stationary at Paris, this jurisdiction was established at the "Marble Table." Charles V. by an enactment, dated in 1374, ordered that all summonses in this matter should enjoin the parties to appear at Paris, and not elsewhere.

In 1590, this tribunal was transferred to Tours, but was re-established at Paris in 1594.

The constabulary was composed of a lieutenant-general, a particular lieutenant, a king's attorney (and at one time also a king's advocate, but the office was afterwards united with that of king's attorney), a chief registrar and a clerk, three *huissiers-audienciers*, and a very great number of other *huissiers*, who served in the different bailiwicks of the kingdom, were employed by the constabulary, and were known by the various names of *huissiers*, *archers*, *archers-huissiers*, *archers-gardes*, *huissiers-sergens*, &c.

The marshals of France presided over this tribunal, and the *premier* marshal of France was at their head. In the absence of the marshals of France, the lieutenant-general presided, and delivered the judgment of the court in their name and in that of the constable, although no such officer was then in existence.

This tribunal decided summarily, and in the last resort, on all matters to the amount of 100 *livres;* and its decisions, when they did not affect a larger sum than 1000 *livres*, were executed provisionally. It also took cognizance of the excesses and crimes and delicts committed by soldiers, whether in camp or garrison, and generally of all matters relating to war (*au fait de la guerre*), provost cases, duels, &c.

When criminal trials took place, the assistance of seven *gradués* was called in, to complete the number of the judges. These assistants were generally advocates.

A list of works on this subject will be found in the third volume of Lelong's *Bibliothèque*, pp. 302—307.

Appeals lay from the decisions of this jurisdiction to the council.

vii. *Provosts of the Marshals of France.*

These were officers (*d'épée*) appointed to perambulate the country in search of robbers and others, and to adjudicate on matters within their jurisdictions.

It was formerly the duty of the counts to take care of the provinces which

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were committed to their charge. These officers were succeeded by the bailiffs and seneschals.

According to Denisart (*Collection de Décisions, &c.*), the marshals were first instituted by Philippe-Auguste in 1185.

Till the reign of François I. there were but two marshals in France. This king increased the number to four. They had the command of the armies together with the constable, as his lieutenants, and as chiefs when he was absent. The military jurisdiction belonging to this office was exercised (under their authority) by a provost.

Towards the end of Louis XI.'s reign, nearly every province had a provost of the marshals.

In the principal provinces, the provosts added to their titles of provosts-general, the name of the province to which each was attached; and those of the other provinces superadded to their titles the name of the chief cities of their provinces; and they were called provincial provosts.

About the year 1544, François I. granted to the *prévôts* of the marshals, concurrently with the bailiffs and seneschals, and even in preference to them, jurisdiction over soldiers who left their quarters, and vagabonds and other malefactors wandering about the fields, highways, &c. Francis also re-established a *prévôté* of the marshal for the city, *prévôté*, viscounty and *élection* of Paris, and for some other *élections*.

These *prévôts*, being thus fully established, appointed other provosts, who were called provosts of the army.

There were also appointed in Guyenne and elsewhere vice-seneschalsies and vice-bailiffs, who assumed in after times the names of provosts of the marshals. The provosts had generally assessors to assist them as counsellors, and sometimes deputies. In some places also there was a king's attorney for the jurisdiction of the marshalsea. In other towns, it was the king's attorney of the presidial court who performed that duty.

The presidial courts and the bailiwicks and seneschalsies had concurrent jurisdiction with the provosts. The clergy, and nobles or gentlemen, the king's secretaries, and other judicial officers generally, were not amenable to them. In cities where a parliament sat, or in the *faubourgs*, if crimes were committed there, the provosts had no jurisdiction, unless they were *cas* strictly *prévôtaux*.

The decisions of these officers were always in the last resort.

The marshals of France had also a peculiar tribunal, which held its sittings at the house of the senior marshal, who was called the first marshal of France.

This tribunal decided, in the last resort, on all cases in dispute between gentlemen and persons assuming the profession of a soldier, in respect of engagements entered into by them on their *parole*, and of *billets d'honneur* subscribed by them.

In the greater part of the cities in France there were deputies and other officers subject to the marshals, whose duty it was to carry their decisions into effect in the various provinces wherein they resided.

RECUEIL CONCERNANT LE TRIBUNAL DES MARÉCHAUX DE FRANCE; par De Beaufort. 2 vols. 8vo. Paris, 1784.

On the Jurisdiction of the Marshals of France, by De Beaufort.

viii. *Chambre Ardente.*

This name was at one time given to the place where criminals of state (of high birth) were tried. Authors state that the name of *chambre ardente* was derived from the fact of the chamber in question being hung in black and lighted up by *flambeaux* or torches. This name was afterwards given, in Henri II.'s time, to a particular chamber in every parliament wherein prosecutions were carried on against Protestants.

The most celebrated of these chambers, in later times, was that which was established in 1679 for the trial of persons accused of administering poisons; and the following is the account given by Des Essarts, in the third volume of his *Essai sur l'Histoire Générale des Tribunaux des Peuples tant Anciens que Modernes, &c.* (noticed *infra*, in this part of the Catalogue) of the origin of this latter chamber:—He states that two Italians, who had been searching a long while at Paris for the philosopher's stone, together with a German apothecary, who was known by his publication of a treatise on chemistry in 1665, having wasted all their money in this ridiculous search, were induced to make amends for their losses by criminal means; and for that purpose they concocted poisonous compositions, and sold them in secret. Among the numerous buyers of these compositions was the Marchioness of Brinvillier.—(See the "CAUSES CÉLÈBRES," *ante*, p. 109.)—The crime for which the marchioness was put to death was the cause of the name of *powder of succession* (*poudre de succession*) being given to those abominable mixtures. In consequence of the frequent occurrence of the crime of poisoning, Louis XIV. established this chamber for the trial of those who were accused of such offences. The sittings of the chamber were held at first at Vincennes, and afterwards at the Arsenal. After the trials of the offenders, the chamber ceased its sittings.

Several other commissions or chambers were established for a temporary purpose, as for cases of smuggling, coinage, and other similar matters; and they were called also *chambres ardentes.*

These chambers were composed of a certain number of commissioners, and to each of them an attorney-general was attached.

ix. *Conservation de Lyon.*

(Tribunal of the Conservation of Lyons.)

This tribunal was established in Lyons, for the purpose of preserving the privileges of the fairs which were held in that city, and of adjudicating on matters in dispute between the merchants and traders frequenting the fair, such matters forming the subject of contracts under the seal of the fairs of Lyons. It would seem that this jurisdiction was the first of those that were created in the kingdom to adjudicate on commercial affairs.

The ancient fairs of Brie and Champagne preceded the *Foires* of Lyons. Important privileges were granted to the former by Philippe de Valois in 1349; and by letters dated in 1419, the city of Lyons was allowed to hold two fairs yearly, which were to have similar privileges to those granted to the fairs of Champagne and Brie.—See *ante*, p. 196.

All the merchandize that was brought to Lyons was exempt from taxes. Foreign merchants, who frequented the fair of Lyons, had the liberty of making their wills and disposing of their property, as if they were natives of the country; and persons of all nations were allowed "*user de changes, arrière-changes,*

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intérêts et prêts d'argent de foire en foire, bailler, prendre et remettre leur argent en quelque pays que ce soit."

Two fairs were ordained by Charles VII. in 1419 to be held at Lyons yearly, each to last a week; and Louis XI. ordained in 1462 that for the future four fairs should be held at Lyons yearly, each to last a fortnight. At what time the jurisdiction of the *conservation* was created does not appear. In 1464, the notables and *conseillers* of Lyons were empowered to choose certain *prud'hommes*, to decide the disputes which might arise in the fairs. Their nomination was to be confirmed by the seneschals.

In 1467, the *conservation* was confided to the *bailli* of Mâcon, who was then, by virtue of his office, seneschal of Lyons.

As the business of this officer increased, the jurisdiction was in after times (probably in the reign of Francis I.) composed of a judge *conservateur* and his deputy.

All the subsequent kings, down to Louis XIV., confirmed this conservation in all its privileges.

ORDONNANCES et Priviléges des Foires de Lyon, et leur antiquité, avec celles de Brie et Champagne, &c. 8vo. Paris, 1560.

Privileges of the Fairs of Lyons, &c.

Dupin mentions a Collection of Privileges in respect of these Fairs, printed at Lyons in 4to. 1649.

See other ordinances, &c. on this subject in the second volume (Jurisprudence) of the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, pp. 306, 307.—See also *supra*, "CORPORATIONS OF TRADES."

x. *Captaincies.*

The name of *capitanerie* or captaincy was given to the jurisdiction of a captain of the hunt or chace.

It was in the reign of François I. that certain districts or cantons of the chace began to be erected into captaincies; and the number of them was determined by an ordinance published in 1669, which divided them into captaincies of the royal palaces, and captaincies of the chace in all the masterships of the waters and forests throughout France, or simple captaincies. The captaincies of the royal palaces were those of the warren of the Louvre, of Saint-Germain-en-Laye, of the Bois-de-Boulogne, Vincennes, Livry, Bondy, Fontainebleau, Monceaux, Compiègne, Chambor, Blois, Hattate, Corbeil and Limours. Two other captaincies were created, that of Meudon by Louis XV. in 1775, and that of Sénart by Louis XVI. in 1774.

These tribunals took cognizance of delicts and matters arising therefrom, as the seizing of arms, sticks, dogs, engines and other things within their several jurisdictions. Appeals lay from the decisions of the captaincies to the council.

The captaincy of the warren of the Louvre was composed of a captain, a lieutenant-general of the long robe, a lieutenant of the short robe, a first and second lieutenant, a king's attorney and two substitutes, a chief registrar, twelve *exempts*, a receiver of fines, a *voyer* and a *renardier*. The other captaincies were formed much on the same plan as that of the warren of the Louvre.

xi. *Chambre de la Marée.*

This was a tribunal composed of certain commissioners of the parliament of Paris, who had the management of the police as to the dealings in fish of the sea, fresh, dry and salt, and of fresh-water fish, in the city, *fauxbourgs* and *banlieue* of Paris. It exercised the same authority over the whole kingdom, when the dealings in this commodity affected the supply of Paris.

The ordinary judges formerly took cognizance, each in his own jurisdiction, of matters relating to this subject. But the parliament of Paris, being aware of the importance of this branch of commerce, so far as it affected Paris, thought proper to reserve to itself the cognizance of this matter, and of all contestations that might arise out of it.

In 1352, King Jean issued a commission composed of four counsellors of the parliament of Paris, two lay and two clerical, and a judge-auditor of the *châtelet*, enabling them to republish the ordinances touching this branch of commerce, and to make general inquiries on the subject, and inflict fines on offenders, &c.

In 1361, the *prévôt* of Paris was reinstated in his authority as ordinary judge in the first instance, within the extent of the *prévôté* and viscounty of Paris, and also in the whole extent of the kingdom, in quality of parliamentary commissioner. Charles V. also issued a commission in 1369, consisting of two presidents, seven counsellors in the parliament of Paris, and the *prévôt* of the same city, in order to reform the abuses existing in this part of the policy of the kingdom. The commissioners made an ordinance on the subject, which was confirmed by the king, by letters-patent, in 1370. This king reinstated the *prévôt* in his jurisdiction in 1379.

There existed always a certain number of parliamentary commissioners, and the jurisdiction of the *marée* was exercised by the parliament of Paris and the *châtelet* for more than two hundred years.

In 1602, letters-patent were obtained by the attorney-general of the *marée*, whereby the parliament of Paris was enabled to adjudicate, in the first instance, on matters submitted to its jurisdiction (*à sa requête*), and in those of the dealers in sea-fish; but this privilege appears not to have been made use of, at least for some time.

In 1678, all causes, both civil and criminal, taken up by the attorney-general of the *marée*, were, in the first instance, brought before the chamber of the *marée;* and since that time this chamber was the only tribunal which took cognizance of matters relating to the dealing in fish, that was intended for the consumption of the inhabitants of Paris.

This chamber held its sittings in the chamber of St. Louis (the *grand' salle* of the palace), and was composed of the *doyen* of the presidents, and of the two senior counsellors in the parliament of Paris, an attorney-general, three registrars, an ordinary *huissier* and a *huissier-priseur* (appraiser).

xii. *The Maçonnerie, or Chamber of Buildings.*

This tribunal, which was within the *enclos* of the palace, took cognizance of all contestations between master-builders and their workmen, &c.; and also of all causes relating to buildings generally. Master-masons, &c. were admitted in this court, which confirmed the nomination of their syndics, inspected their accounts, and performed the duty of seeing that their statutes were observed. This tribunal performed the functions of the police in respect of buildings, &c. by

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commissioners appointed by the president. It consisted of three judges, who had the title of king's counsellors, judges and masters-general of the king's buildings, and of the *ponts-et-chaussées* of France; a king's attorney and a substitute, a chief registrar, a receiver of fines, a head *huissier*, and two others.

xiii. *The Bazoche.*

This was a jurisdiction originally established in favour of the *clercs* (literary persons—not clergymen), who undertook the management of the causes of individuals in court. These *clercs* performed the same functions as those which were afterwards exercised by the *procureurs*. The institution of the *clercs* as a regular body was owing to Philip the Fair, who, when he made the parliament stationary at Paris, found it necessary to attach persons to this court for the purpose of undertaking the legal business of individuals. He therefore ordained, by the advice of the parliament itself, that there should be a king among these *clercs*, who should have a certain jurisdiction, with the title of "King of the *Bazoche*," and should decide on all matters in dispute between the *clercs*, both in civil and criminal causes. *Prévôts* and *bazochial* jurisdictions were at the same time allowed to be appointed and established in the royal courts within the jurisdiction of the parliament of Paris; and they were enjoined to do fealty and homage to the king of the *Bazoche*, to whom appeals were to be brought from the decisions of the *prévôts*. It was stipulated also that the king of the *Bazoche* should have reviews, or musters, of his subjects (the *clercs*, &c.). These reviews, or musters, took place yearly, and on the appointment of the king of the *Bazoche*, who issued his orders for that purpose to his "princes and subjects," to meet at Paris (under heavy penalties) in bands and companies, and in the uniform or livery of their captains. The reviews attracted great crowds of people; and it is stated that Francis I. felt a desire to see this exhibition, and was present at one of the musters of the king of the *Bazoche*.

The greatest exploit recorded of the inhabitants of the *Bazochian* kingdom occurred in the reign of Henri II. The inhabitants of Guienne having revolted in 1548, the king sent the Constable Montmorenci with an army to subdue them. While the levies were being raised, the king of the *Bazoche* and his subjects offered their services, which were accepted. The number of the *Bazochians* on this occasion was 6000; and it is stated that they did their duty so well, that the king desired them to name their reward for this signal service. They were modest enough to reply that they desired no reward, and that they would be always ready to assist him whenever he might require their services. It is added, that the king was so pleased with this answer to his offer, that he allowed them to cut in his forests and woods, every year, trees for the purpose of forming "may-poles," which they were in the habit of setting up yearly on the last Saturday in the month of May, before the great *perron* (steps) of the court of the palace (of justice); and further, in order to furnish the money to pay the expenses of this yearly ceremony, he allowed them a sum to be taken out of the fines inflicted by the parliament of Paris and the court of aids.

The title of "king" of the *Bazoche* was put an end to in the reign of Henri III., and from that time a chancellor was the head of this jurisdiction. The other members of this tribunal were several masters of the requests, a grand *audiencier*, a referendary, an attorney-general, an advocate-general, four treasurers, a registrar, four notaries and secretaries of the *Bazochian* court, a head *huissier* and

eight others, an almoner who had a vote, and a seat next to the grand *audiencier* and referendary, both of whom were masters extraordinary of the requests.

All the proceedings on the trials were undertaken by the *clercs*, who acted as advocates for the parties. The sittings of this tribunal were held in the *chambre de St. Louis* (in the parliament of Paris). The chancellor presided at these sittings, or in his absence the vice-chancellor or the senior master of the requests. The petitions that were addressed to the court of the *Bazoche* were headed—"To our lords of the kingdom of the *Bazoche*." The original of this word is stated by Joannes Lucius, in the 3rd title, book 12, of his *Placita Summæ apud Gallos Curiæ*, &c. (noticed in this Catalogue at p. 93) to be the Greek word βαζοχειοι, "*quasi dicaces, qui verba funditant, et salibus ludunt: qui risitantes irruunt cachinnos, joca, dicta.*"

Denisart, in the first volume of his *Décisions Nouvelles*, &c. ed. Paris, 4 vols. 4to. 1771, says, that the *Bazoche* was a body of the clerks of attornies practising in the parliament of Paris, whose functions consisted in certifying whether the clerks who wished to practise as attornies had been ten years in an attorney's office, &c. He quotes a decision to that effect, of the year 1697.

According to Miraulmont, in his *Mémoires sur l'Origine, &c. des Cours Souveraines*, &c. (see *ante*, p. 198), the *Bazoche* was a jurisdiction belonging to the clerks of the parliament, the seniors of whom were the officers; and he who presided was called the chancellor. No causes were decided by this court except those which arose between the clerks, or between a tradesman or artisan and one of these clerks, for work done, &c.

The *châtelet* also had its *Bazoche*. The functions of this body consisted in certifying, in respect of those persons who aspired to be admitted to practise as attornies, that they had regularly served their time (ten years). The head of this body was styled the "provost," who, as well as the treasurer of the same body, had the privilege of being admitted to practise as an attorney, without having served the ten years.

RECUEIL DES STATUTS, Ordonnances, Règlemens, Antiquités, Privilèges et Préeminence du ROYAUME DE LA BAZOCHE, ensemble plusieurs Arrêts donnés pour l'Établissement et Conservation de sa Jurisdiction. 8vo. Paris, 1654.

A Collection of the Statutes, Regulations, &c. concerning the (so-called) Kingdom of the *Bazoche*.

xiv. *The Empire of Galilee, or the High and Sovereign Empire of Galilee.*

This was a supreme tribunal belonging to the *clercs* of the chamber or court of accounts at Paris, and had jurisdiction, rights and privileges somewhat similar to those of the *clercs* of the *Bazoche*. It was within the precincts of the palace. The original institution of this tribunal is stated to have taken place before the fifteenth century.

The empire consisted of fifteen *clercs*, namely, a chancellor, an attorney-general, six masters of the requests, two secretaries of the finances, a comptroller, a registrar and two *huissiers*. These officers were ordinary and semestral. The chancellor, the masters of the requests, and the secretaries alone had a right of voting. The empire assembled every Thursday morning. A certain costume was prescribed, and an infringement of this regulation was punishable by

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fine. This tribunal had a protector, who was empowered to make rules for the general government of the body.

COUTUMES.—See CUSTOMARY LAWS.

CRIÉES.

Criées were proclamations made by the *huissiers* or serjeants, to make known to the public that certain lands (*héritages*) had been seized or distrained, and that they were about to be sold by decree of court (judicially). There was an edict promulgated on this subject in 1551, called *l'édit des criées.*—The word *criée* also meant the actual distraining or seizure of property.

See *infra*, "SAISIES;" and also on both these subjects, and on others connected therewith, as *Décrets, Enchères, Exécutions, Inventaires, Scellés,*—Merlin's *Répertoire*, Denisart's *Collection de Décisions*, and Ferrière's *Dictionnaire*, under those several headings.

NOUVEAU TRAITÉ DES CRIÉES; par A. Bruneau, Avocat. 4to. Paris, 1704.

A Treatise on *Criées* by Bruneau, an advocate in the parliament of Paris.

TRAITÉ DES CRIÉES, VENTES DES IMMEUBLES, &c.; par J. A. Thibault, Procureur au Parlement de Dijon. 2 vols. 4to. Dijon, 1746.

A Treatise on Proclamations and Sales of Property, by Thibault, an attorney in the parliament of Dijon.

TRAITÉ DE L'APPOSITION ET LEVÉE DES SCELLÉS, &c.; par le St. A. * * 12mo. Paris, 1720.

A Treatise on the affixing of the Seals on Property, &c.

RÉGLEMENS SUR LES SCELLÉS ET INVENTAIRES, &c.; par M. Meslé. 4to. Paris, 1734.

Regulations concerning the affixing the Seals, and making the Inventory, &c., by Mesle.

STYLE UNIVERSEL DE TOUTES les Cours et Jurisdictions du Royaume, concernant les Saisies et Exécutions des Meubles et Immeubles; par M^e. J. E. Soulatges. 2 vols. 12mo. Toulouse, 1759.

The Practice, &c. in respect of Distraints on Property, by Soulatges.

TRAITÉ DE LA VENTE DES IMMEUBLES PAR DÉCRET, &c.; par M^e. Louis de Héricourt, Avocat au Parlement. 2 vols. 4to. Paris, 1771.

A Treatise on the Sale of Immoveable or Real Property by a Judge's Order, &c. by Louis de Héricourt.—See *ante*, p. 158.

Criminal Law.

Traicté des Peines et Amandes, tant pour les Matieres Criminelles que Civiles, &c.; par M. Jean Duret. 12mo. Lyons, 1606.

A Treatise on Penalties and Fines in Criminal and Civil Matters, by Duret; taken from the Laws of the Twelve Tables, of Solon and Draco, the Canonical Constitutions, the Civil and Imperial Laws, and accompanied with the Practice of the Courts of Law in France.

Jean Duret, king's advocate in the presidial court of Moulins, was born in that city in 1540, and died at the beginning of the seventeenth century. He composed other works besides the present.

Traité des Crimes, &c., par Jean-Antoine Soulatges. 3 vols. 12mo. Toulouse, 1762.

A Treatise on Crimes, by Soulatges.

Discours sur le Préjugé des Peines Infamantes, &c.; par M. Lacratelle, Avocat au Parlement. 8vo. Paris, 1784.

A Discourse on the Prejudice existing in respect of Punishments creating Infamy, by Lacratelle, an advocate in the parliament of Paris.

Les Moyens d'adoucir la Rigueur des Loix Penales en France, &c.; par M. Brissot de Warville. 8vo. Châlons-sur-Marne, 1781.

The Means of Softening the Rigour of the Criminal Laws of France, by De Warville.

Thorillon, Idées sur les Lois Criminelles. 2 vols. 8vo. Paris, 1788.

In this treatise (styled "Ideas on Criminal Laws") the author proposes to substitute 460 laws of his suggestion for those in use. These projected laws provide for every kind of crimes, &c.

Traité de l'Adultère, considéré dans l'Ordre Judiciaire; par Fournel. 12mo. Paris, 1783.

A Treatise on Adultery, by Fournel.—See *ante*, p. 176.

Remontrance au Roy, contre les Blasphémateurs, &c.; par Lanagerie. 8vo. Paris, 1699.

A Remonstrance against Blasphemers, by Lanagerie.

Cas Privilégié.—By the term *cas privilégié* was meant a crime or delinquency committed by a clergyman, for which he was amenable to the jurisdiction of the royal judges by special privilege, because such delinquency could not be punished by the ecclesiastical judges with the proper severity.

See Jousse's *Administration de la Justice*, *ante*, p. 124.

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TRAITÉ DE LA MORTE CIVILE, tant celle qui résulte des Condamnations pour Cause de Crime, que celle qui résulte des Vœux de Religion; par Maître François Richer, Avocat au Parlement. 4to. Paris, 1755.

A Treatise on Civil Death resulting from Convictions of Crimes, or from entering into Religious Communities, &c., by Richer, an advocate in the parliament of Paris.

François Richer was born in 1740, and died in 1790. He was author of many other works, and published an edition of the "*Causes Célèbres.*"

The present work is divided into three parts, the two latter of which are subdivided into books, titles, chapters, &c. There is an index of parts, &c., and another of matters.

Part 1 treats of the reasons for the introduction of the privation called civil death. It also treats of the question, whether that privation was in use among the Romans, and also of its use in France.

Part 2 treats of the condemnations or conviction which induce civil death; when it begins, what are its effects, and when it ends.

Part 3 treats of civil death as incurred by becoming professed, that is, by taking the vows.

See the *Causes Célèbres*, No. 89, *ante*, p. 111.

TRAICTÉ CONTRE LES DUELS, avec les Ordonnances et Arrests du Roy Saint Loys; par M. Jean Savaron. 8vo. Paris, 1614.

A Treatise against Duelling, by Savaron.

Jean Savaron, lieutenant-general in the presidial court of Clermont, was born about 1550, and died in 1622. He composed several other works relating to the laws and history of France, which are of great value.

ÉDITS CONTRE LES DUELS. 12mo. Paris, 1689.

A Collection of Edicts and other Enactments concerning Duels.

TRAITÉ DU FAUX, ou l'Ordonnance du mois de Juillet, 1737, concernant le Faux Principal et Incident, &c. 8vo. Bar-le-Duc, 1757.

A Treatise on Forgery, Falsifications, &c., being a Commentary on the Ordinance of 1737 on that subject.

CODE DU FAUX, ou Commentaire sur l'Ordonnance de 1737; par Serpillon. 4to. Lyons, 1774.

A Commentary on the Ordinance of 1737, by Serpillon.

TRAITÉ DES INJURES dans l'Ordre Judiciaire, ouvrage qui renferme particulièrement la jurisprudence du petit criminel; par Me F. Dareau. 12mo. Paris, 1775.

A Treatise on Injuries, &c., by Dareau.

DISCOURS DES PARRICIDES, composé par feu Reverendissime Messire Guillaume Du Blanc, Evesque de Grasse, &c.; par le

Protonotaire Du Blanc, nepveu de l'Autheur. 12mo. Lyons, 1606.

A Discourse on Parricides, by Du Blanc, Bishop of Grasse, &c.
The word "parricides" includes the other crimes enumerated below.
This work is divided into 15 chapters.
Chapters 1—4. Of parricide; its heinousness, &c.; its origin; how it may be committed, &c.; 5. Of matricide; 6. Of infanticide; 7. Of fratricide; 8. Of brothers killing their sisters; 9. Of husbands killing their wives; and of wives killing their husbands. [The last seven chapters contain the names of several persons guilty of these crimes]; 10. Of the divine punishment of parricides; 11—14. Of the punishment of the same crimes among men by the ecclesiastical and civil laws; 15. This chapter gives instances when such crimes have been committed without reprehension, &c.

De la Peine du Péculat, selon les Loix et l'Usage de France. 4to.

A Treatise on the Penalty of Peculation.

Traité de la Séduction, considéré dans l'ordre judiciaire; par Fournel. 12mo. Paris, 1781.

A Treatise on Seduction, by Fournel.—See *ante*, pp. 176 and 237.

Explication des Articles et Chefs du Crime de Lèze-Majesté; extraicts des anciennes ordonnances de France; par M. Pierre Boucler, bailly d'Aumalle. 8vo. Paris, 1628.

An Explanation of the Articles touching the Crime of Treason, by Boucler, bailiff of Aumalle.

Curatelle.

This was the office of a *curateur* (in Latin *curator*), a person who was appointed to take care of the persons and property of minors when they were out of their tutelage (that is, freed from the power of a *tutor*, another kind of guardian—see *infra*, "Tutelle"), and emancipated.

Curators (*curateurs*) were also appointed for spendthrifts or prodigals, imbecile and mad persons. They were also appointed for children unborn; for the property of a deceased person, who had apparently no heirs, &c.; for absent persons, and for various other purposes.

See *infra*, "Guardianship;" and also the articles *Curatelle* and *Tutelle* in Merlin's *Répertoire* and Ferrière's *Dictionnaire*.

Customary Laws.

The *coutumes* or customary laws were usages or customs peculiar to cities, towns, and provinces, partly handed down from time immemorial, and partly granted by charters. Great diversity existed in the customary laws, which was found to be attended with considerable inconvenience; for it was perfectly impossible for any one judge to be acquainted with the variations of the different *coutumes*, and particularly such as were not reduced into writing. When there-

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fore any question arose as to what was the custom or not in such a place, an inquiry took place, which was called *enquête par turbes* (that is, troops, or witnesses, or company, or number of persons, each *turbe* consisting of ten persons). Two *turbes* at least were necessary in order to decide the point at issue. This mode of coming at the truth of the matter, which was attended with great expense, and was besides very uncertain, was abolished in 1667; and *actes de notorieté*, or previous decisions on the same point, were substituted for the *enquêtes*. Many of the *coutumes* or usages are stated by some authors to have been first reduced into writing in the eleventh and twelfth centuries. The earliest of these digested or written customary laws appear to have been the *fors* of Bearne, which are in all probability of the eleventh century. The oldest charter appears to have been that which was granted by Louis the Devout in 1144 to the corporation of Bordeaux, which seems to be a confirmation of a previous grant of privileges. Several other charters were granted in this century. An enumeration of various other early charters will be found in Fleury's *Histoire Abrégée du Droit Français* (noticed *infra*, heading "HISTORY OF THE LAW").

By some authors, Pierre de Fontaines' *Conseil*, *Li Livre la Royne* (both noticed *ante*, p. 36), the *Grand Coustumier de France* (*ante*, p. 40), Bouteiller's *Somme Rural* (*ante*, p. 41), are treated as books of customs.

In order to remedy the inconveniences arising from the uncertainty of many of these *coutumes*, and from others not being reduced to writing, it was thought advisable to digest (or re-digest, as the case might be) the whole of the *coutumes* of the kingdom, in a more formal and regular way, and in writing. This project was formed by Charles VII. in 1453, by an ordinance for the reformation of justice, dated at Montil-les-Tours in that year, the 125th article of which decreed that thenceforth all the customary laws of the kingdom should be reduced to writing, and agreed to by the customary tenants, practitioners, and others of each place, &c.; and afterwards "put and written in books," and examined by the great council or the parliament of Paris, and then decreed and confirmed by the king; and that the customs so decreed and confirmed should be observed as law.

Du Moulin states that it was the object of this law to compile one general law out of all the various *coutumes*, and that the intention of the digesting, &c. of each particular *coutume* was only provisional.

This ordinance was not carried into effect, either in the reign of Charles VII. or in that of his successor. In the reign of Charles VIII. another ordinance was promulgated on the subject, and the customary laws of Ponthieu were the first that were thus digested. Progress was made during the following reigns in the work of digesting; but some of the *coutumes* remained undigested (that is, anew), even so late as the middle of the eighteenth century.

Great ceremonies were observed on the occasion of the new digesting of the *coutumes*, the particulars of which will be found in the *procès-verbaux* at the end of several of the *coutumes* in Richebourg's *Nouveau Coutumier Général*, noticed *ante*, p. 26.

It may not be improper to add to this article, that some authors mention various usages or customary laws of France as being derived from the Gauls. These are, community of property (on the authority of Cæsar); dower, on the authority of Tacitus; the *retrait lignager*, which presupposes the use of *propres*,

on the authority of Pithou, in his commentary on the 144th article of the customary laws of Troyes, and of Grosley, the author of the Researches on the Origin of the Laws of France.—See *infra*, "HISTORY OF THE LAW."

INSTITUTES COUSTUMIÈRES, ou Manuel de plusieurs et diverses Règles, Sentences et Proverbes, tant anciens que modernes, du Droict Coustumier et plus ordinaire de la France; par M. Anthoine Loisel, Avocat en Parlement. 12mo. Paris. 1646.

The Institutes of the Customary Laws of France, by Loisel. The author was an advocate in the parliament of Paris, and died in 1617. (See *ante*, p. 140.) The work is divided into six books, which are subdivided into titles and articles, or sections.

A new edition of these institutes, with notes by De Laurière, was printed at Paris, in 2 vols. 8vo. 1842, edited by Dupin and E. Laboulaye.

Book I.—Titles 1—3. Of persons, marriage, and dower; 4—6. Of guardianship, &c.

Book II.—Titles 1—6. Of the quality and condition of things, of seigniory and the seigneurial *justice*, servitudes, wills, succession and heirship, division of the property, and bringing into hotchpot.

Book III.—Titles 1—7. Of conventions and contracts, powers of attorney, &c., community of property and partnerships, sales, the right of repurchasing, leasing, or hiring, mortgages, &c.

Book IV.—Titles 1—6. Of rents, fiefs, donations, securities, and payments.

Book V.—Titles 1—5. Of actions, bars and exceptions, prescription, possession, seisin, &c., proof or evidence, and exceptions to witnesses.

Book VI.—Titles 1—6. Of crimes and wagers of battle, punishments and fines, judgments, appeals, execution, taxes, and *corvées*.

Many of the articles are given in proverbs and short rhymes. The work consists of 164 pages only.

BIBLIOTHÈQUE des Coutumes, &c., par Claude Berryer et Eusèbe de Laurière, Avocats au Parlement. 4to. Paris, 1699.

This work contains a preface for a new edition of the "*Coutumier Général*," the running title to which is "*Conjectures sur l'Origine du Droit Français;*" a list of editions of the "*Coutumier Général;*" an index of the text of the various "*Coutumes*," &c., and of the commentators thereon; the texts of the ancient and modern customary laws of the Bourbonnais; and four unpublished consultations, by Du Moulin.

CONFÉRENCE des Coutumes de France; par P. Guenois. Fol. Paris, 1596.

A Collection of the Customary Laws of France, by Guenois.

See De Richebourg's *Coutumier Général, ante*, p. 26.

DÉGUERPISSEMENT.

This word meant an act whereby a *détenteur* (mortgagee or other detaining party) gave up the possession of immoveable property, in order to get rid of the

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cens, charge foncière, or other real charge on it. See Loyseau's works, *ante*, p. 143, and Merlin's *Répertoire*, article "*Déguerpissement.*"

DÉLAISSEMENT.

This word meant an abandonment of property, and was applicable to five cases (according to Ferrière's *Dictionnaire*), namely, 1. to a cession of property; 2. to the renouncing of a succession or of a community of property; 3. to the giving up possession, when a real action was brought against a person; 4. to the abandonment *par hypothèque*; 5. to *déguerpissement*. The first three cases related to personal actions, and the others to real and mortgage actions.

DÉMISSIONS DE BIENS.

A *démission de biens* meant a divesting himself of his property by a person, during his life-time, in favour of his children or grandchildren. This species of donation was revocable, according to the practice of the parliaments within whose jurisdiction they were made. *Démissions* appear to have prevailed chiefly in Normandy and Brittany: in the latter province, they seem to have been irrevocable.

One of the reasons assigned by Ferrière, in his *Dictionnaire*, for such gifts, is, that the donor thereby freed himself from the payment of the *taille*, and also secured a provision for himself, for the remainder of his life.

QUESTIONS SUR LES DÉMISSIONS DES BIENS, avec deux Dissertations, l'une en la Question six, sur les Statuts personnels, réels et mixtes; l'autre en la Question dix-neuf, sur les Impenses et Améliorations. Par Maître Louis Boullenois, Avocat au Parlement. 8vo. Paris, 1727.

Questions on Resignations of Property; together with Two Dissertations, the one on Statutes personal, real and mixed, and the other on the Expenses incurred about, and the ameliorations of, property, which did not belong to the person incurring such expenses, &c. There is a preface, and an index.

The author, Louis Boullenois, an advocate in the parliament of Paris, was born at Paris on the 14th September, 1680, and died on the 23rd December, 1762.

DIPLOMACY.

RECUEIL DE TRAITÉS DE PAIX, de Trève, de Neutralité, de Confédération, d'Alliance et de Commerce, faits par les ROIS de France avec tous les Princes et Potentats de l'Europe, et autres, depuis près de trois siècles: assemblés, mis en ordre et imprimés par Frédéric Léonard, &c. 6 vols. 4to. Paris, 1693.

A Collection of Treaties of Peace, &c. entered into between France and other Powers of Europe, by Léonard, the king's printer.

The first volume of this collection contains the treaties of the fifteenth century; the second, those of the sixteenth; the third, those of the seven-

teenth, till the year 1690, with the German states, &c.; the fourth, the treaties entered into with the Swiss, from 1444 to the close of the seventeenth century, and those made with Savoy, Piedmont, Italy, Spain and Portugal, in the seventeenth century; the fifth, those entered into with England, Holland, Denmark, Sweden, Muscovy, Poland, &c., and countries in Asia, Africa and America, in the seventeenth century; the sixth, declarations of war and treaties of alliance against France.

A copious list of collections of treaties between France and other powers will be found in the third volume of Lelong's *Bibliothèque Historique de la France*, pp. 4—20; and a list of historical letters, *mémoires*, despatches and negociations will be found in the same volume, pp. 33—126.

MÉMOIRES et Négociations Secrètes de la Cour de France touchant la Paix de Munster. Contenant les Lettres, Réponses, Mémoires, et Avis secrets envoiez de la part du Roi, de S. E. le Cardinal Mazarin, et de Mr. le Comte de Brienne, Secrétaire d'État, aux Plenipotentiaires de France à Munster, à fin de leur servir d'Instruction pour la Paix Générale, avec les Dépêches et les Réponses des Plenipotentiaires. Fol. Amsterdam, 1710.

The Negotiations, Instructions, &c. on the part of France, in regard to the Treaties of Peace concluded at Munster and Osnaburgh, in the year 1648; the former between the Empire and France, and between Spain and Holland, and the latter between the Empire and Sweden.

CORRESPONDANCE DIPLOMATIQUE DE BERTRAND DE SALIGNAC DE LA MOTHE FÉNÉLON, Ambassadeur de France en Angleterre, de 1568 à 1575. Publiée pour la première fois sur les Manuscrits conservés aux Archives du Royaume. 7 vols. 8vo. Paris and London, 1838—40.

The Diplomatic Correspondence of La Mothe Fénélon, Ambassador from France to the Court of Queen Elizabeth, from 1568 to 1575.

This is the first part of a collection of the despatches, relations (*rapports*), instructions and *mémoires* of the French ambassadors in England and Scotland, during the 16th century, made by Mr. C. Purton Cooper. The collection is intended to begin in the reign of Henry VIII., and to end at nearly the death of Queen Elizabeth. The title of the collection is as follows:—"*Recueil des Dépêches, Rapports, Instructions et Mémoires des Ambassadeurs de France en Angleterre et en Écosse, pendant le 16e Siècle. Conservés aux Archives du Royaume, à la Bibliothèque du Roi, &c. Et publiés pour la première fois sous la Direction de M. Charles Purton Cooper.*"

The number of the despatches in the first six volumes is 469, the earliest of which is dated the 16th November, 1568, and the latest the 20th September, 1575. Besides the despatches, there is a great number of valuable documents incidental thereto or connected therewith. The seventh volume (which is supplementary) contains 170 letters from the Queen Mother (Catherine of Medicis) and her sons Kings Charles IX. and Henry III. to Fénélon, during the same embassy. Every despatch, &c. is dated, and

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has a summary of the contents. Each volume has an index of the contents, and the seventh volume has a general index. There are notes throughout.

Vol. I. contains an interesting life and pedigree of the ambassador, with valuable historical notes; an address to be recited to the king, on his returning from his embassy, in 1575; remarks on the manuscript from which this copy is taken, and which is in the Archives *du Royaume*, in 5 vols. sm. folio, and in the handwriting of Le Vergne, one of Fénélon's secretaries.

The despatches intended to be included in the collection (besides Fénélon's) are those of Monsieur d'Interville, ambassador to the court of Henry VIII.; those of De Chastillon, who was ambassador in England in 1537 and the following year; those of De Marillac, in 1539 and 1540; those of De Saludie, from 1546 to 1549; those remaining unpublished of De Noailles, from 1552 to 1561; those of Bochetel de la Forest, from 1566 to 1568; those of De la Maussière, from 1579 to 1582; those of De Loménie, in 1595 and 1596; those of De Maisse, in 1597 and 1598; and those of De Boissire, from 1598 to 1601; and also those of various other ambassadors who came to England on visits of ceremony.

HISTOIRE GÉNÉRALE ET RAISONNÉE DE LA DIPLOMATIE FRANÇAISE, ou de la Politique de la France, depuis la fondation de la Monarchie jusqu'à la fin du Règne de Louis XVI. &c., par M. de Flassan. 7 vols. 8vo. Paris, 1811.

A new edition of De Flassan's History of French Diplomacy, from the beginning of the Monarchy till the end of Louis XVIth's Reign. This history was compiled from authentic sources, and under the auspices of the Emperor Napoleon.

DIPLOMATICS.

TABLE CHRONOLOGIQUE des Diplomes, Chartes, Titres et Actes imprimés, concernant l'Histoire de France. Par M. de Bréquigny, de l'Académie Royale des Inscriptions et Belles-Lettres. Continuée par M. Pardessus, Membre de l'Institut (Académie des Inscriptions). 5 vols. fol. Paris, 1769—1846.

An Index of the Charters, &c. relating to the History of France, which have been printed.

M. Louis-Georges-Oudard Feudrix de Bréquigny, the author of this work, was also editor of vols. 10, 11, 12, 13, and 14 of the Collection of the Ordinances of the Kings of the Third Race, begun by De Laurière (see *ante*, p. 15), and co-editor of the following work; he was also author of several other works. He was born at Granville in 1716, and died at Paris in 1795.

The author states in his preface, that the original intention was to publish a work similar to Rymer's *Fœdera*; but that the obstacles to be encountered (which he enumerates) would prevent such an undertaking. This intention, however, has been partly carried into effect by the publication of the work following this article.

In the details of his plan (given in the preface), Bréquigny admits that

he has inserted suspected and even forged charters, and gives his reasons for so doing. The charters, &c. are noticed in chronological order, and the authorities are mentioned under each notice.

The first volume extends from the year 142 to 1031; the second, from 1032 to 1136; the third, from 1137 to 1179, the fourth, from 1180 to 1213; the fifth, from 1214 to 1239. Each volume has four or five indices.

DIPLOMATA, Chartæ, Epistolæ, et alia documenta ad res Francicas spectantia, ex diversis regni exterarumque regionum archivis ac bibliothecis, jussu regis Christ. multorum eruditorum curis, plurimum ad id conferente congregatione S. Mauri, eruta. Notis illustrarunt et ediderunt L.-G.-O. Feudrix de Brequigny, &c. et F.-J.-G. La Porte du Theil. 3 vols. fol. Paris, 1791.

A Collection of Charters and other Documents relating to the History of France, by De Bréquigny and Du Theil. The charters printed are from the year 472 to the year 721. The work is not completed.

François-Jean-Gabriel de la Porte du Thiel, a literary man, was born at Paris in 1742, and died in 1815.

A new edition of this work is in the course of publication by M. Pardessus, the first volume of which appeared at Paris in 1840, in fol.

DE DIPLOMATICIS, præsertim iis quæ ante nongentos aut mille annos à primis Francorum Regibus signata dicuntur, in quibus erratur eò periculosiùs, quòd hæc sæpè unica ratio sit constituendæ chronologiæ; auctore Daniele Papebrochio, è Societate Jesu.

A Treatise on Diplomatics, in reference to the Charters of the early Kings of France, by Papebroch. It is to be found at the beginning of the second part of a treatise, entitled *Propylæum Antiquarium circa veri falsique discrimen in vetustis monumentis*, which is inserted in the second volume of the *Acta Sanctorum* (of April). Fol. Antwerp, 1675.

The treatise is divided into nine articles, wherein the author proves the falsity of several charters which had thitherto been treated as authentic, and lays down rules to distinguish real charters from false ones.

This treatise is stated to have given rise to Mabillon's celebrated work on the subject.—See next page.

Daniel Papebroch (or Papebroeck), one of the editors of the *Acta Sanctorum*, was born at Antwerp in 1628, and died in that city in 1714.

A list of other works on the subject, including registers and charters of the kings, and chartularies, will be found in the third volume of Lelong's *Bibliothèque Historique de la France*, pp. 20—33.

DE RE DIPLOMATICÂ, libri VI. In quibus quidquid ad veterum Instrumentorum antiquitatem, materiam, scripturam et stilum; quidquid ad sigilla, monogrammata, subscriptiones ac

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notas chronologicas; quidquid inde ad antiquariam, historicam, forensemque disciplinam pertinet, explicatur et illustratur. Accedunt Commentarius de Antiquis Regum Francorum Palatiis: veterum Scripturarum varia specimina, tabulis LX. comprehensa: nova ducentorum, et amplius, monumentorum Collectio. Operâ et studio Domni Johannis Mabillon, Presbyteri ac Monachi Ordinis S. Benedicti è congregatione S. Mauri. Editio secunda ab ipso auctore recognita, emendata et aucta. Fol. Paris, 1709.

A Treatise on Ancient Charters, &c. relating chiefly to France, by Mabillon. It is a work of great authority.

Jean Mabillon, a Benedictine of the celebrated congregation of St. Maur, was born in 1632, and died in 1707. He was author and compiler of many other works.—See the *Biographie Universelle*, article "*Mabillon*."

The work is divided into six books, three of which are subdivided into chapters.

There is a dedicatory epistle to Colbert, and a preface by Ruinart.

Book I. treats of the antiquity of ancient instruments or deeds, the materials on which they were written, and the writing.

Book II. treats of the style of charters, &c., the subscriptions, the seals, and the chronological marks or notes to them.

Book III. Objections answered: on the authority of *notitiæ* and *chartaria*.

Book IV. treats of the residences of the Frankish kings, where the acts, &c. were made.

Book V. contains the plates, and explanations.

Book VI. contains numerous charters, corollaries, &c. to the work.

There is a copious index, and several plates of engravings.

Librorum de Re Diplomaticâ Supplementum, &c. Operâ et Studio Domini Johannis Mabillon, &c. Fol. Paris, 1704.

This is a supplement to the preceding work, and is not included in it. There is an appendix to the supplement, and they both contain engravings of deeds and seals.

This supplement may be considered as a reply to Germon's treatise on the subject, noticed *infra*.

De veteribus Regum Francorum Diplomatibus, et arte secernendi antiqua Diplomata vera è falsis, ad Johannem Mabillonium Disceptatio; auctore Bartholomæo Germon, è Societate Jesu. 12mo. Paris, 1703.

A dissertation by Germon, which may be considered as attacking the system laid down by Mabillon. It is divided into two parts, and has a supplement.

Barthélemi Germon, a man of letters, was born at Orleans in 1663, and died in that city in 1718. He composed other works besides the present.

DIPLOMATIQUE PRATIQUE, ou Traité de l'Arrangement des Archives et Trésors des Chartes, &c. Par M. Le Moine, archiviste du Chapitre de la Métropole de Lyon, &c. 4to. Metz, 1765.

A Treatise on the Arrangement of Repositories of Deeds, chiefly with reference to France, by Le Moine.

The author was record-keeper in the chapter of the cathedral church of Lyons.

The work is divided into two parts, the first of which is subdivided into chapters, and the other consists of forms, tables, plates of specimens of handwriting used in deeds, from 1011 to 1617, and a Dictionary of old French words.

The first chapters relate to the arrangement of the documents, taking notes, &c. Chapter 9 treats of the materials for writing, and the instruments used therein, seals and signatures; 11. Of the styles and forms of deeds. The other chapters relate to the general arrangement, &c. of records.

L'ARCHIVISTE FRANÇAIS, par Batthenary. 4to. Paris, 1775.

See infra, "TRÉSOR DES CHARTES."

DOMAINS OF THE CROWN.

TROIS LIVRES DU DOMAINE DE LA COURONNE DE FRANCE. Composez en Latin par M. René Choppin, &c. Et traduicts en Langue vulgaire sur la dernière Impression de l'An 1605, &c. Fol. Paris, 1613.

A Treatise on the Domains of the Crown of France, by Chopin.

This work is divided into three books, which are subdivided into titles, &c. There are dedications, &c., a life of Chopin, his epitaph, &c., and two indices.—See *ante*, p. 138.

The first book (in fifteen titles) treats of the origin, &c. of the royal patrimony, the nature, &c. of the domains of France; of the perpetual right of re-purchasing them; of the *droit d'aubaine*; of property without an heir, &c.; of mortmain; of the king's domain in the woods, forests and rivers, &c.

The second book (in fifteen titles) treats of the prohibition to alienate the domains of the crown; that the domains are not liable to division; of the appanages of the eldest sons of the kings of France, and of others; of the *cas royaux*; of the rights of sovereignty and of the *régale*; of the king's right of nomination to bishoprics, and to some livings; of the succession to appanages; of the alienation of the domains, &c.; before what judges causes affecting the royal domains are to be tried.

The third book (in thirty titles) treats of the extinction of appanages on failure of heirs male; in what cases females are excluded from inheriting appanages; of the regency of the kingdom; that women may hold fiefs and principalities; of the succession to the peerages

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of France; of the king's coronation; of prescription in respect of the domains; of the farmers of the domains; of waste lands, &c.; of the royal notaries, &c.; who has power to create a duke, &c.; of the treasurers of France; of the institution and foundation of the royal universities; of *oblats;* of the royal privileges generally, and of those granted to the kings of France by the pope.

This is a most valuable work.

DICTIONNAIRE RAISONNÉ DES DOMAINES ET DROITS domaniaux; des droits d'échanges, et de ceux de contrôle des actes des notaires et sous-signatures privées, insinuations laïques, centième denier, petit-scel, contrôle des exploits, formule, gréfes, droits-réservés, francs-fiefs, amortissement et nouvel-acquêt, &c. [Par M. Bosquet.] 3 vols. 4to. Rouen, 1762.

A Digest, in alphabetical Order, of the Laws relating to the Domains of the Crown, &c. by Bosquet, a person officially connected with the administration of the domains, &c.

RECUEIL DES ÉDITS ET ORDONNANCES DU ROY, &c. concernant les Domaines et Droits de la Couronne, &c. 9 vols. 4to. Paris, 1735—44.

A Collection of Edicts, &c. touching the Domains and Rights of the Crown.

An ample list of works on this subject will be found in the second volume of Lelong's *Bibliothèque Historique de la France*, ed. De Fontelle, pp. 803—819.

DONATIONS OR GIFTS.

TRAITÉ DE LA RÉVOCATION DES DONATIONS, par la Naissance ou Survenance des Enfans; par A. de la Rivière. Fol. Paris, 1754.

A Treatise on the Revocation of Donations, by the Birth of Children, &c. by de la Rivière.

LA JURISPRUDENCE DES DONATIONS ENTRE-VIFS, suivant l'Usage de tous les Parlemens et Sièges du Royaume, &c.; par P. Roussilhe. 3 vols. 12mo. Avignon, 1785.

The Practice of the Courts in respect of Donations *inter vivos*, both in the Provinces governed by the Roman Law, and in those governed by Customary Laws; by Roussilhe, an advocate.—See *infra*, "WILLS."

DOWER (DOUAIRE), JOINTURE AND SETTLEMENT (DOT).

Dower was a life-estate, given by law to the widow, in the real property (*immeubles*) of her deceased husband. By the customary laws of some of the provinces, as Paris and Orleans, this estate consisted of a moiety, and generally of a third in the others.

In those provinces and *pays* where the Roman law prevailed, it was unknown; but the widow had other privileges instead, as the *augment, bagues et joyaux, &c.*

The *douaire conventionnel* was equivalent to a jointure. The word *dot* meant a jointure or settlement, and was more in use in the *pays de droit écrit* than in the *pays coutumiers*.

REMARQUES SUR LES DOUAIRES ou Alimens accordés aux Veuves; par M. Nordville (Philippe Dumouchet). 12mo. Paris, 1766.

Observations on Dower, by Dumouchet.

TRAITÉ DU DOUAIRE EN NORMANDIE: par Biard. 12mo. Evreux, 1784.

A Treatise on Dower, as it prevailed in Normandy, by Biard.

TRAITÉ DES GAINS NUPTIAUX ET DE SURVIE, qui sont en Usage dans les Pays de Droit écrit, contenant ce qui concerne les Augmens de Dot, Agencemens, Contre-augmens, Donations de Survie, Bagues et Joyaux, et autres Gains nuptiaux et de Survie; par Ant. Gasp. Boucher d'Argis. 4to. Lyons, 1738. —Additions au même Traité. 4to.

A Treatise on Nuptial Gains or Profits, and the Benefit of Survivorship between Husband and Wife, in use in the Provinces governed by the Roman Law; by Boucher d'Argis.

This is a very comprehensive work, and gives full information on all the subjects comprised in the title-page: it was held in great estimation.

See *supra*, "AUGMENT," and "COMMUNITY OF PROPERTY BETWEEN HUSBAND AND WIFE;" and *infra*, "PARAPHERNALIA" and "PROPERTY."

See also the works of Renusson, *ante*, p. 154, and of Pothier, No. 20, *ante*, p. 166.

ECCLESIASTICAL LAW.

France was divided, for ecclesiastical purposes, into 16 provinces, which furnished the deputies to the asemblies of the clergy of France.—See *supra*, "CLERGY OF FRANCE."

There were in France, a short time before the Revolution in 1789, 18 archbishoprics and 111 bishoprics; 16 houses or abbeys, *chefs d'ordre* or of congregations; several abbeys and priories united to bishoprics, seminaries, colleges, hospitals, &c.; 625 abbeys for men *en commende*, and in the king's gift; 115 other abbeys *en règle*, and almost all in the king's gift; 253 regular abbeys for women; 64 priories for women; 24 chapters of canonesses or noblewomen; 129 chapters of cathedrals; 526 chapters of collegiate churches; 6 grand priories, 4 bailiwicks and 219 commanderies of the Order of Malta, and 2 convents of *religieuses chevalières* of the same order; and 40,000 parishes. There were also 40,000 vicars, 50,000 curates, 27,000 priors or chaplains, 13,000 *bénéficiers de bas-chœur*, chanters, &c., and 5000 *enfans de chœur*. Besides these, there were Capuchins, *anciens mendiants*, Augustins, &c. and numerous other eccle-

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siastical persons. There were in all of the clergy, secular and regular, male and female, 406,482; and their revenues amounted to 119,593,596 *livres*. If the revenues of the hospitals were to be included in this amount (as in Expilly), the total amount of revenues would be 127,593,596 *livres*. M. Neckar estimated the whole at 130,000,000 *livres*; and M. de Talleyrand, in a speech on the subject in the National Assembly, stated the revenues to be 150,000,000, of which 70,000,000 were derived from land and 80,000,000 from tithes.

The following is a list of the archbishoprics of France, with the bishoprics within their jurisdiction. The archbishoprics are put in alphabetical order.

THE ARCHBISHOPRIC OF AIX.—The following bishoprics were within this province: Apt, Riez, Frejus, Gap, Sisteron.

THE ARCHBISHOPRIC OF ALBY.—The following bishoprics were within the province of this archbishopric: Castres, Mende, Cahors, Rodez, Vabres.

THE ARCHBISHOPRIC OF ARLES.—The bishoprics within this province were Marseilles, St. Paul Trois-Châteaux, Toulon, Orange.

THE ARCHBISHOPRIC OF AUSCH comprised the bishoprics of Acqs, Lectoure, Comenges, Couserans, Aire, Basas, Tarbes, Oleron, Lescar, Bayonne.

THE ARCHBISHOPRIC OF BESANÇON comprised the bishopric of Bellay.

THE ARCHBISHOPRIC OF BORDEAUX comprised the bishoprics of Agen, Condom, Angoulême, Saintes, Poitiers, La Rochelle, Luçon, Perigueux, Sarlat.

THE ARCHBISHOPRIC OF BOURGES comprised the bishoprics of Clermont, Saint-Flour, Limoges, Tulles, Le Puy.

THE ARCHBISHOPRIC OF CAMBRAY comprised Arras, Saint-Omer.

THE ARCHBISHOPRIC OF EMBRUN comprised the bishoprics of Digne, Grasse, Vence, Glandève, Senez.

THE ARCHBISHOPRIC OF LYONS comprised the bishoprics of Autun, Langres, Châlons-sur-Saône, Mâcon, Dijon and Saint-Claude.

THE ARCHBISHOPRIC OF NARBONNE had for suffragans the bishops of Beziers, Agde, Carcassonne, Nîmes, Aleth, Alais, Montpellier, Lodève, Usez, Saint-Pons, Perpignan.

THE ARCHBISHOPRIC OF PARIS comprised the bishoprics of Chartres, Blois, Meaux and Orleans.

THE ARCHBISHOPRIC OF REIMS comprised the bishoprics of Soissons, Châlons-sur-Marne, Laon, Senlis, Beauvais, Amiens, Noyon, Boulogne.

THE ARCHBISHOPRIC OF ROUEN comprised the bishoprics of Bayeaux, Avranches, Evreux, Séez, Lizieux, Coutance.

THE ARCHBISHOPRIC OF SENS comprised the bishoprics of Troyes, Auxerre, Nevers and Bethléem.

THE ARCHBISHOPRIC OF TOULOUSE had for suffragans the bishops of Pamiers, Montauban, Mirepoix, Lavaur, Rieux, Lombes, Saint-Papoul.

THE ARCHBISHOPRIC OF TOURS comprised the bishoprics of Le Mans, Angers, Rennes, Nantes, Vannes, Quimpercorentin, Saint-Pol de Léon, Tréguier, Saint-Brieu, Saint-Malo, Dol.

THE ARCHBISHOPRIC OF VIENNE comprised the bishoprics of Valence, Die, Grenoble, Viviers.

To these bishoprics are to be added those of Metz, Toul and Verdun, the bishops of which were suffragans of the Archbishop of Trèves; and Strasburg, the bishop of which was a suffragan of the Archbishop of Mayence.

The Archbishop of Lyons was primate of all France.

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INSTITUTION AU DROIT ECCLÉSIASTIQUE DE FRANCE, &c., composée par feu Me Charles Bonel, Docteur en Droit, Canon à Langres, et revue avec soin par M. de Massac, ancien Avocat au Parlement. 12mo. Paris, 1679.

Institutes of the Ecclesiastical Law of France. This work is by the Abbé Fleury, the author of a celebrated Ecclesiastical History. A new edition of this work was published in 1706, with the notes of Boucher d'Argis.

The name of Bonel, which occurs in the title-page, was fictitious. See on this subject the first volume (p. 467) of Lelong's *Bibliothèque Historique de la France*, edited by De Fontette.

Claude Fleury, at one time an advocate in the parliament of Paris, and afterwards abbot of the Abbey of Loc-Dieu, of the order of Cistertians, was born at Paris on the 6th December, 1640, and died on the 14th July, 1723. A list of Fleury's works will be found in the *Biographie Universelle*, article "*Fleury*."

LES LOIX ECCLÉSIASTIQUES DE FRANCE dans leur ordre naturel, et une Analyse des Livres du Droit Canonique, conférez avec les usages de l'Église Gallicane. Par Me Louis de Héricourt, Avocat au Parlement. Fol. Paris, 1719.

The Ecclesiastical Laws of France in their Natural Order, with an Analysis of the Books of the Canon Law, compared with the Usages of the Gallican Church; by De Héricourt, an advocate in the parliament of Paris.

Louis de Héricourt was born in 1687, and died at Paris in 1752. He was author of other works besides the present. See *ante*, pp. 158 and 236. This work is reckoned to be the best on the subject: another edition of it was published in 1771.

The work is divided into four parts, which are subdivided into chapters and articles. There is a preface, a dissertation prefixed to each part, and indices.

PART 1. OF ECCLESIASTICAL JURISDICTION.—A dissertation.—Chap. 1. Of the jurisdiction of the bishops; 2. Of the grand vicars, officials and vicegerents, the judges of the bishops' courts; 3. Of archdeacons and rural deans; 4. Of the jurisdiction of chapters of cathedrals during the vacancy of the see; 5. Of the metropolitans; 6, 7. Of the pope and his legates; 8. Of the cardinals, and of the congregation or assembly of the court of Rome; 9. Of judges delegate; 10. Of the government of the regular clergy; 11. Of exemptions from the jurisdiction of the ordinary; 12. Of the authority of kings in respect of ecclesiastical government; 13. Of apostolic arbitrators and notaries; 14. Of ecclesiastical laws, and particularly of the canons of councils; 15. Of papal constitutions; 16. Of the king's ordinances, the decisions of courts, &c.; 17. Of the customs or usages and liberties of the Gallican church; 18. Of the interpretation of the laws, and of dispensations, &c.; 19. What things are within the jurisdiction of ecclesiastical judges; 20, 21.

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Of ecclesiastical, civil, and criminal process; 22, 23. Of canonical penalties, &c.; 24. Of crimes; 25. Of simple appeals, and of appeals *comme d'abus*."

PART 2. OF BENEFICES.—Historical dissertation on the origin of benefices.—Chap. 1. Of the definition and division of benefices; 2. Of the age and requisites necessary for the obtaining of benefices; 3. Of the election, presentation, and confirmation; 4. Of the king's nomination to consistorial benefices; 5. Of ordinary collators to benefices; 6. Of the *régale*; 7. Of the right of conferring benefices; 8. Of graduates; 9. Of *indults*; 10. Of the *brévetaires de joyeux avènement*; 11. Of the reservation of vacant benefices by the papal court; 12. Of *prévention*; 13. Of reservations *pour le pays d'obédience*; 14. Of resignations by bishops, &c. in favour of others; 15. Of exchanges of livings; 16. Of pensions payable out of benefices; 17. Of the form of conferring benefices; 18. Of taking possession of benefices; 19. Of disputes as to benefices; 20. Of the different kinds of vacancies of benefices; 21. Of the uniting and division of benefices.

PART 3. OF HOLY THINGS.—Historical dissertation on holy things.—Chap. 1. Of the sacraments generally, and particularly of baptism and confirmation; 2. Of the eucharist; 3. Of penance and extreme unction; 4. Of the ordaining of the clergy (*sacrement de l'ordre*); 5. Of marriage; 6. Of churches, vows, burials, &c.

PART 4. OF THE PROPERTY OF THE CHURCH.—Historical dissertation on the property of the church.—Chap. 1. Of tithes; 2. Of the owners of the great tithes, and of the allowance to the parson; 3. Of acquisitions made by the church, of mortmain licences, and of indemnities to the *seigneurs*; 4. Of the administration of the property of the church; 5. Of tenths and other aids; 6. Of the assemblies of the clergy; 7. Of the alienation of church property; 8. Of the privileges of the clergy.

At the end of the work, there is an analysis of the books of the canon law compared with the usages of the Gallican church.

LA BIBLIOTHÈQUE CANONIQUE, contenant par ordre alphabétique toutes les matières Ecclésiastiques et Bénéficiales, qui ont été traitées par Maistre L. Bouchel, avocat au Parlement de Paris, dans sa Somme Bénéficiale. À la quelle ont été ajouté, dans le même ordre, plusieurs Traités, Arrêts, Règlemens, Déclarations, Ordonnances, et Notes sur les mêmes matières, selon l'usage présent. Par Maistre Claude Blondeau, Avocat au mesme Parlement. 2 vols. fol. Paris, 1689.

This is a new edition, by Blondeau, of Bouchel's *Somme Bénéficiale*, with the Addition of short Treatises, and the Decisions of the Courts, Edicts, Papal Bulls, &c. The whole is arranged under headings, and in alphabetical order. There is a dedication, an address to the reader, but no index.

DICTIONNAIRE DE DROIT CANONIQUE, et de Pratique Béné-

ficiale, conféré avec les Maximes et la Jurisprudence de France, c'est à dire, avec les Usages et Libertés de l'Eglise Gallicane, &c.; par M. Durand de Maillane, Avocat au Parlement d'Aix. 5 vols. 4to. Lyons, 1776.

A Dictionary or Digest, in alphabetical order, of the Canon Law as compared with the Maxims and Jurisprudence of France, that is, the Liberties of the Gallican Church, the Pragmatics, *Concordats*, Ordinances of the Kings of France, &c. the Decisions of the Parliaments, the Opinions of French Authors, and the Practice of the Ecclesiastical Courts of France; by Durand de Maillane, an advocate in the parliament of Provence. This is the third edition of the work. The first was published in 1761, in 2 vols. 4to.

Pierre-Toussaint Durand de Maillane was born in 1729, and died in 1814. He composed other works, besides the present and the preceding article. The work is spoken of with indifference in the *Biographie Universelle*, article "*Durand*." There is an *avertissement*, an *instruction* on the manner of studying the canon law; and there are decisions of the courts, forms, &c. scattered throughout the compilation.

RENATI CHOPPINI Andegavi J. C. et in Gallicâ Curiâ Max. Advocati De Sacrâ Politiâ Forensi Libri III. Fol. Paris, 1589.

A Treatise, by Chopin, on the Ecclesiastical Polity of France. This edition contains the dedication "*Christianissimo Regi Carolo X. Borboneo.*" There is an address to the reader, a preface, and two indices. The work is divided into three books, which are subdivided into titles, &c.

Book 1 (styled *Monastikos*) treats of the appointment to benefices; of collations and lay patronage; "*de regalibus Sacerdotiorum muneribus.*"

Book 2 (styled *Politikos*) treats of the jurisdiction of the clergy, and of appeals from their decisions, &c.

Book 3 (styled *Oikonomikos*) treats of the property of the church; of tithes, first fruits or tenths (*décimes*), oblations, &c.

It appears to be a general treatise on the subject, and not confined to France.

TRAITÉ DU DROIT ET DES PRÉROGATIVES DES ECCLÉSIASTIQUES dans l'Administration de la Justice séculière; par M. Petitpied, &c. 4to. Paris, 1715.

A Treatise on the Rights and Prerogatives of the Clergy in the Administration of Justice, by Nicolas Petitpied, an eminent canon lawyer. He was born about 1630, and died in 1705.

This work is divided into two parts, which are subdivided into chapters.

The first portion of the work treats of the part taken by the priests in the administration of justice among the Hebrews and other ancient people

The chapters of the second part treat of the precedency of the ecclesiastics over the laity in the assemblies of the great men (*grands du royaume*), and in the councils of the kings of the first and second line, in the councils

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of the early kings of the third line, in the parliaments, the chambers of accounts, court of aids, and grand council, and in the *Châtelet* of Paris.

HISTOIRE DU DROIT PUBLIC ECCLÉSIASTIQUE FRANÇOIS, &c. Par M. Du Boulay. 2 vols. 4to. London, 1750.

History of the Public Ecclesiastical Law of France, by Du Boulay, a canon lawyer. This is an important work.

GALLIA CHRISTIANA, in Provincias Ecclesiasticas distributa; quâ Series et Historia Archiepiscoporum, Episcoporum et Abbatum Franciæ Vicinarumque Ditionum ab origine Ecclesiarum ad nostra tempora deducitur, et probatur ex authenticis Instrumentis ad calcem appositis. Operâ et Studio Domni Dionysii Sammarthani, Presbyteri et Monachi Ordinis Sancti Benedicti, è Congregatione Sancti Mauri. 13 vols. fol. Paris, 1716—85.

This is a History of the Archbishops, Bishops, and Abbots, &c. of France and the neighbouring countries which formed part of ancient Gaul. The work is arranged under the headings of the archbishoprics, and in alphabetical order. This is a new edition of the work by Denis Sainte-Marthe and others, all Benedictines of the congregation of St. Maur.

The first volume has two dedications, two prefaces, a list of the provinces and cities of Gaul in the time of the Emperor Honorius, and a list of the modern archbishoprics and bishoprics of France; and each volume has a map, several indices, and numerous documents (by way of proofs or illustrations), consisting of charters of foundations of monasteries, &c.—The original work was first published at Paris in 4 vols. fol. 1656.

An abridgment of this work was published at Paris in 1774 and the following years, in 13 vols. 8vo. under the title of "*Le Clergé de France, ou Tableau Historique et Chronologique des Archevêques, Evêques, &c.; par Hugues du Tems, Chanoine de l'Église Métropolitaine de Bordeaux.*" In this abridgment, the supplements are inserted in their proper places, and the number of the provinces is complete.

ANNATES.

TRAITÉ DES ANNATES, &c.; (par l'Abbé Béraud, aidé de l'Abbé Longuerue). 12mo. Amsterdam, 1718.

A Treaty on Annates, by the *Abbé* Béraud and the *Abbé* Longuerue.

APPEALS FROM THE ECCLESIASTICAL JURISDICTION.

TRAITÉ DE L'ABUS, et du vrai sujet des Appellations qualifiées de ce nom d'Abus; par Charles Févret, Seigneur de Saint Nemy et Godan, Conseiller, Secrétaire du Roy, &c. 2 vols. fol. Lyons, 1736.

A new edition of Févret's Treatise on the Abuses of Authority by the Ecclesiastical Courts, appeals from which abuses were termed *Appellations comme d'Abus.*

Charles Févret, a counsellor and king's secretary in the parliament of Burgundy, was born at Sémur in 1583, and died in Dijon in 1661. He was author of several other works besides the present.

This valuable work is divided into nine books, which are subdivided into chapters. The chief subjects treated on in the work are—the immunities of the Gallican church; the king's authority in respect of the discipline of the church; of abuses in respect of excommunications and interdictions, and of assumptions of power in temporal matters; of the authority of the kings of France touching the temporalities of the church; of abuses in respect of the following things,—resignations of benefices, papal bulls, the contentious jurisdiction of the church, marriages, divorces, the proceedings in ecclesiastical courts. The last book treats of appeals from the decisions of the ecclesiastical courts.

ECCLESIASTICÆ JURISDICTIONIS Vindiciæ adversus Caroli Feuretii et aliorum Tractatus de Abusu. [From the 1st volume of Hauteserre's works, edited by Marotta, and printed at Naples in 11 vols. 4to. 1777—80.]

A Treatise by Hauteserre, in Vindication of the Ecclesiastical Jurisdiction, in opposition to Févret's treatise *De l'Abus*, &c.

The work was composed by Hauteserre, at the suggestion of an assembly of the clergy of France.

Antoine Dadin de Hauteserre (in Latin, Alteserra), a professor of canon and civil law in the university of Toulouse, was born in the diocese of Cahors at the beginning of the seventeenth century, and died in 1682.

Two other works of Hauteserre's relating to French law are noticed among the Treatises in this part of the Catalogue. His other principal works relate to the Roman and Canon laws.

The present work is divided into eleven books, which are subdivided into chapters. There is a preface, notes, an index, and an analysis of the work, taken from the *Journal des Savans* (26th March, 1703).

The first book treats of the jurisdiction of the bishops generally; the second, of the ecclesiastical jurisdiction, both voluntary and contentious; the third, of the correctional authority of the bishops; the fourth, of criminal proceedings against clergymen; the fifth, of several crimes, which are termed *cas privilegiés;* the sixth, of the ecclesiastical jurisdiction in respect of marriages and other matters; the seventh, of the order of the proceedings in the ecclesiastical courts; the eighth, of simple appeals, and of *appellations comme d'abus;* the ninth, of ecclesiastical penalties; the tenth, of the *majores causæ* reserved for the decision of the pope; the eleventh, of the ecclesiastical hierarchy.

See also the works of Gilles Le Maistre, No. 5, *ante*, p. 133.

BENEFICES.

DES DIGNITÉS ET OFFICES ECCLÉSIASTIQUES, et des Matières Ecclésiastiques et Bénéficiales; par Charles-Eman Borjon, Avocat en Parlement. 3 vols. 12mo. Lyons, 1688.

On Ecclesiastical Dignities and Offices, by Borjon.

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RECUEIL DES PRINCIPALES DÉCISIONS SUR LES MATIÈRES BÉNÉFICIALES; par M. Roch Draper. 2 vols. 12mo. Paris, 1732.

A Collection of the principal Decisions of the Courts on Benefices.

TRAITÉ DES BÉNÉFICES, &c. Par M . . . P . . . G. 3 vols. 4to. Paris, 1734.

A Treatise on Benefices, &c.

See Rebuffi's *Praxis Beneficiorum, ante*, p. 131.

TRAITÉ DE LA DÉVOLUTION, du Dévolut, et des Vacances de plein Droit, &c. Par M. Piales, Avocat au Parlement. 2 vols. 12mo. Paris, 1758.

A Treatise on Lapses of Benefices, and on the various causes for which they may be forfeited, by Piales, an advocate in the parliament of Paris.

Jean-Jacques Piales, a canon lawyer, was born at Rouergue about 1720, and died on the 4th August, 1789. He composed other works on ecclesiastical law besides the present, which is a *suite* to his treatise on collations, &c. of benefices, in 8 vols. 12mo. 1754.

The first volume of the present work comprises the treatise on *Dévolution* and *Dévolut*, and the second and third volumes that on the *Vacances de plein Droit*.

The division of the work is into parts and chapters. The third volume has an index of the decisions of the courts, mentioned in the *vacances* treated on in the volume, and an index of subjects.

CANONS.

RECUEIL DE DÉCISIONS IMPORTANTES sur les obligations des Chanoines, sur l'usage que les Bénéficiers doivent faire des revenus de leurs Bénéfices, et sur la Pluralité des Bénéfices: par un Chanoine de Noyon. 12mo. Noyon, 1746.

A Collection of important Decisions, touching Canons, &c. by a Canon of Noyon.

CENSURES, &c.

JOANNIS D'AVEZAN Antecessoris in Academiâ Aurelianensi Primicerii, LIBER DE CENSURIS ECCLESIASTICIS, cum Dissertatione de Pontificiâ et Regiâ Potestate. 4to. Orleans, 1654.

A Treatise on Ecclesiastical Censures, by Jean d'Avezan, professor of law in the University of Orleans.

USAGES DE L'ÉGLISE GALLICANE CONCERNANT LES CENSURES et l'Irrégularité, &c.: par Jean-Pierre Gibert, Docteur en Théologie, &c. 4to. Paris, 1724.

The Usages of the Gallican Church concerning Censures, by Gibert, a doctor of divinity.

CONCORDAT.

CONCORDATA inter Papam Leonem X. et Franciscum I. Gallorum Regem, quibus fuere addita: 1° Declaratio et Designatio primi mensis post publicationem, in quo Beneficia vacantia sunt debita et affecta Graduatis simpliciter; 2° Litteræ quibus Rex constituitur protector et defensor hujusmodi Concordati; 3° Prorogatio temporis; cum defensorio Heliæ, &c. 8vo. Paris, 1518.

This *concordat* or agreement was concluded at Bologna in 1516, between François I. and Pope Leo X., in order to settle the differences which existed between the Gallican Church and the Romish Court. François was accompanied at Bologna by the Chancellor Duprat. By this *concordat* the pope granted to the king the right of appointing to bishoprics, abbacies and conventual priories; and the king granted to the pope the annates of benefices. The *concordat* is divided into twelve rubricks and a preamble.

A copy of the *concordat* will be found in the thirteenth volume of the *Anciennes Lois Françaises.*

See also Rebuffi's works, *ante*, p. 131.

QUESTIONS ET OBSERVATIONS SUR LE CONCORDAT; par M. Du Perray. 12mo. Paris, 1722.

Questions and Remarks on the *Concordat*, by Du Perray.

See *infra*, "LIBERTIES OF THE GALLICAN CHURCH," "PRAGMATIC SANCTION;" and the article "CORCORDAT," in the modern portion of this division of the Catalogue.

COUNCILS.

CONCILIA ANTIQUA GALLIÆ, &c. Operâ et studio Jacobi Sirmondi. 3 vols. fol. Paris, 1629.

The Ancient Councils of France, by Sirmond, an eminent scholar.

SUPPLEMENTA CONCILIORUM ANTIQUORUM GALLIÆ, a Jacobo Sirmondo editorum: primùm emissa operâ et studio Petri de la Lande. Fol. Paris, 1666.

A Supplement to the above Article, by De la Lande.

CONCILIA NOVISSIMA GALLIÆ, à tempore Concilii Tridentini celebrata, in editionibus regiâ Parisiensi et Coloniensibus omissa, &c.: operâ et studio Ludovici Odespung de la Meschinière. Fol. Paris, 1690.

The Modern Councils of France, by Odespung de la Meschinière.

CURATES.—See VICARS.

DÉLIT-COMMUN.

By the words *Délit-commun* were meant the delinquencies committed by

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clergymen, which were punishable by ecclesiastical tribunals only, and were not of such a nature as to incur a corporal punishment.

See also *infra*, "LIBERTIES OF THE GALLICAN CHURCH," Dupuy's Collection; and Milletot's treatise on this subject, Article 17, *infra*, p. 291.

DÉLIT PRIVILÉGIÉ.—See CAS PRIVILÉGIÉ, *ante*, "CRIMINAL LAW."

DROITS HONORIFIQUES.

These were certain honours or privileges belonging to patrons of churches, and the *seigneurs hauts-justiciers* of the districts or places where such churches existed. The objects of such honours are specified in De Ferrière's *Dictionnaire de Droit*, article *Droits honorifiques*.

It would seem that the patron had precedency in the church and at processions; that the *seigneur haut-justicier* was next to him; next followed the lord of the fee (*seigneur du fief*), and after him those gentlemen, who took precedence of the other inhabitants.

TRAITÉ DES DROITS HONORIFIQUES des Seigneurs dans les Églises; par le Sieur Maréchal, &c. 2 vols. 12mo. Paris, 1724.

To this treatise, by Maréchal, on the *Droits honorifiques* of the *seigneurs*, are added, Simon's Treatise on Patronage, and some Decisions of the Courts on the subject, by Danty.

See the 18th *Plaidoyer* of Henrys, *ante*, p. 150; and *infra*, "PARISHES," and "VICARS."

EDICT OF NANTES.

EDICT DU ROY HENRY IV., sur la pacification des troubles de ce Royaume, donné à Nantes au mois d'Avril, 1598, avec les articles particuliers: ensemble autres Edicts et Declarations des Roys Henry IV., Louis XIII. et Louis XIV., donnés en consequence d'iceluy. 8vo. Paris, 1644.

The Edict of Nantes, promulgated by Henri IV., together with other edicts on the subject, by Louis XIII. and Louis XIV.

See *supra*, "COURTS OF LAW," heading "Ecclesiastical Tribunals."

A list of other works concerning the Protestants of France will be found in the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, 2nd vol. (Jurisprudence), pp. 294—297.

EXCOMMUNICATIONS.

TRAITÉ HISTORIQUE DES EXCOMMUNICATIONS; 1^e^ et 2^me^ partie. 12mo. Paris, 1715.

A Treatise on Excommunications.

INDULT.

The term *indult* means a papal rescript, empowering certain persons to confer benefices. The *indult* of the parliament of Paris meant a similar privilege

granted by the king to certain individuals of the parliament of Paris. These persons were the chancellor or keeper of the seals, the presidents, masters of the requests, and the counsellors and secretaries.

See Denisart's *Collection de Décisions*, &c. article *Indult*.

NOTICES SOMMAIRES sur les Indults accordés au Roi, par Pinsson. 2 vols. 12mo. Paris, 1673.

Summary notices on the *Indults* granted to the king, by Pinsson.

TRAITÉ de l'Indult du Parlement de Paris, par Cochet de Saint-Vallier. 3 vols. 4to. Paris, 1747.

A Treatise on the *Indult* of the Parliament of Paris, by Melchior Cochet de Saint-Vallier, a president in the parliament of Paris. This author was born in 1664, and died in 1738.

LEGATES.

DU POUVOIR DES LÉGATS DU PAPE, et de la forme qui se doit garder quand ils entrent en France. 8vo. Paris, 1594.

On the Power of the Papal Legates, with reference to France.

MONITORIES.

TRAITÉ DES EXCOMMUNICATIONS ET MONITOIRES, &c. par Jacques Eveillon, Chanoine de l'Église d'Angers. 2 vols. 12mo. Rouen, 1712.

A Treatise on Excommunications and Monitories, by Eveillon, a canon of the cathedral church of Angers.

OBLATIONS.

TRAITÉ DES OBLATIONS ; ou Défense du Droit imprescriptible des Curez sur les Oblations des Fidèles : par Guy Drapier, Curé de St. Sauveur de Beauvais. 12mo. Paris, 1685.

A Treatise on Oblations, by Drapier, vicar of St. Sauveur, at Beauvais.

Gui Drapier was born at Beauvais in 1624, and died in 1716. He composed other works on ecclesiastical subjects.

PARISHES.

CODE DES PAROISSES, ou Recueil des plus importantes Questions sur les Curez et leurs Paroissiens, &c. par le P. Bernard d'Arras. 2 vols. 12mo. Paris, 1746.

A Code of Parishes, or a Collection of the most important Questions touching Vicars and their Parishioners, by *Père* Bernard.

PATRONAGE.

DES DROITS DE PATRONAGE, de Présentation aux Bénéfices, de Préséances des Patrons, des Seigneurs et autres. Des Droits honorifiques, des Litres, Ceintures funèbres, des Bancs, et des

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Sépultures dans les Églises. Par Maistre Claude de Ferrière Avocat au Parlement. 4to. Paris, 1680.

A Treatise on the Right of Presentation to Benefices, &c. including the right of putting up armorial bearings in churches, and of pews and burials in the same, by Ferrière, an advocate in the parliament of Paris.

Claude de Ferrière, an advocate in the parliament of Paris, was born in 1639, and died in 1714: he was author of several other works.

The work is divided into three parts, which are subdivided into chapters and sections; each chapter has a summary of its contents. There is a dedication, a short introduction, an index of parts, &c. and another of subjects.

Part I. Of the Right of Presentation.

Chap. 1. Of the origin and creation of the right of presentation; 2. Of the division of the right; 3—5. How and by whom the right is acquired, &c.; 6. Of the transfer of the right; 7. Of the effects of the right; 8. Of the evidence of the right; 9, 10. Of foundations, &c.; 11. Of the causes of the extinction of the right; 12. What judge has jurisdiction over the right of presentation.

Part II. Of Presentation to Benefices.

Chap. 1—5 treat of presentations generally, and how, when and to whom they should be made; 6—11. Who may be presented; of the form and effect of the presentation; of the institution and induction, &c.

Part III. Of the Right to Pews, &c. and of Precedency.

Chap. 1. Of precedency; 2. Of holy water, &c.; 3. Of burials in churches; 4, 5. Of armorial bearings and pews in churches; 6. Of the title of lord or "*seigneur*" of a parish; 7. Of actions in respect of armorial bearings, &c. in churches.

Traité du Droit de Patronage, de la Présentation aux Bénéfices, et des Droits honorifiques des Seigneurs dans les Églises; avec un Traité des Maximes du Droit Canonique: par Denis Simon, Conseiller au Présidial de Beauvais. 12mo. Paris, 1666.

A Treatise on the Rights of Patronage, and on the *Droits honorifiques*, together with a Treatise on the Maxims of the Canon Law; by Simon.

Traité des Patrons et Curez Primitifs, de leurs Charges, et de celle des Décimateurs: par Mich. du Perray, Avocat. 12mo. Paris, 1721.

A Treatise on Patrons and Parsons or *curés primitifs*, by Du Perray.

Michel du Perray, an eminent canonist, and an advocate in the parliament of Paris, was born in 1640, and died in 1730. He wrote several other works on ecclesiastical matters.

See also Furgole's works, *ante*, p. 159.

PENSIONS (ECCLESIASTICAL).

DISSERTATION SUR LES PENSIONS, selon les Libertez de l'Église Gallicane: par Me Menassier, Prestre. 12mo. Paris, 1671.

A Dissertation on Ecclesiastical Pensions, according to the Liberties of the Gallican Church, by Menassier, a priest.

TRAITÉ DES PENSIONS ROYALES; où il est prouvé que le Roy a droit de donner des Pensions sur les Bénéfices de sa nomination, &c.: par l'Abbé Richard. 12mo. Paris, 1719.

A Treatise on Pensions granted on Benefices, &c. by the Abbé Richard.

PORTION CONGRUE.

This was a yearly allowance or pension payable to vicars and perpetual curates, by the lay tithe-holders (*gros décimateurs*). Ferrière, in his *Dictionnaire*, calls the *portion congrue* the "*légitime* of the vicars," &c. The three principal enactments on this subject are, the edict of 1571, the declaration of 1686, and the edict of 1768.

TRAITÉ DES PORTIONS CONGRUES DES CUREZ et Vicaires perpetuels; avec plusieurs Questions sur les Offrandes, Pensions, &c. par Mich. du Perray, Avocat. 2 vols. 12mo. Paris, 1720.

A Treatise on the *Portion congrue* of Vicars and Perpetual Curates, by Du Perray.

See *infra*, "VICARS," and the works of Rebuffi and Furgole, *ante*, pp. 131, 159; and also the sixth volume (Jurisprudence) of the *Encyclopédie Méthodique*, article *Portion Congrue*. This latter contains a curious account of the yearly expenses of the vicars of the diocese of Auch.

PRAGMATIC SANCTION.

This word meant an enactment made respecting the Gallican church. There existed two pragmatic sanctions in the legislation of France, one of which (but little known) was promulgated by Louis IX. in 1268; the other was promulgated by Charles VII. in 1438. This latter is the pragmatic sanction, which is usually noticed and quoted by authors. It was abrogated by François I. at the intercession of Pope Leo X.; and the celebrated Concordat of 1516 was made in its stead.

Both these pragmatic sanctions are printed in the *Anciennes Lois Françaises*; the first in the first volume, and the other in the ninth.

See the article *Pragmatique Sanction* in the sixth volume (Jurisprudence) of the *Encyclopédie Méthodique*.

SANCTI LUDOVICI, FRANCORUM REGIS, PRAGMATICA SANCTIO, &c. authore Francisco Pinssonio. 4to. Paris, 1663.

The Pragmatic Sanction of Louis IX., with an Historical Preface and a Commentary by Pinsson.

François Pinsson, an advocate in the parliament of Paris, was born in 1612, and died in 1691.

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Ecclesiastical Law.

This pragmatic sanction is divided into six titles, the first of which secures the rights and jurisdiction of churches, patrons, &c.; the second secures to cathedrals, &c. the right of elections; the third relates to simony; the fourth declares that collations, &c. shall be made according to the common law, the councils, and the ancient fathers; the fifth prohibits the exorbitant exactions of the Romish court; the sixth confirms the privileges of the churches, &c. and of ecclesiastical persons.

CAROLI VII., FRANCORUM REGIS, PRAGMATICA SANCTIO, cum Glossis D. Cosmæ Guymier, &c. Fol. Paris, 1666.

The Pragmatic Sanction of Charles VII., with Guymier's Commentary and Additions by Phil. Probus, edited by F. Pinsson.

Côme Guymier, a president in the parliament of Paris, was born in the fifteenth century, and died in 1503.

This pragmatic sanction is divided into twenty-three titles, which are subdivided into articles. The first title treats of the authority and power of general councils, and of the time and manner of calling them together; the second, of elections to the dignities in cathedral, collegiate, and monastic churches; the fourth, of collations; the eighteenth, of concubinage by the priests or clergy; the twenty-third and last is headed *De Conclusione Ecclesiæ Gallicanæ.*

TITHES.

TRAITÉ HISTORIQUE ET CHRONOLOGIQUE DES DIXMES; par Mich. du Perray, Avocat. 12mo. Paris, 1719.

A Treatise on Tithes, by Du Perray.

TRAITÉ DES DIXMES en général, suivant la Jurisprudence Ancienne et Nouvelle; par M^r. L[e] M[aire], Avocat. 2 vols. 12mo. Paris, 1731.

A Treatise on Tithes, by Le Maire, an advocate. It is divided into twelve chapters, and subdivided into questions and answers.

Chapter 1 treats of tithes in general; 2, 3. Of ecclesiastical and lay tithes; 4. Of prescription of tithes; 5, 6. What things are titheable; 7, 8. Who owe tithes, and who are free from them; 9. How tithes are to be paid; 10. The obligations of those who receive tithes; 11. In what courts tithes are recoverable; 12. The obligations of the patron.—At the end are two or three opinions, &c. on tithes.

Vol. II. contains some royal edicts (the earliest dated in 1631) and decisions of the courts on the subject.

RECUEIL DES PRINCIPALES DÉCISIONS SUR LES DÎMES, les Portions Congrues, les Droits et Charges des Curez Primitifs; par M^e Roch Drapier, Avocat, &c. 2 vols. 12mo. Paris, 1741.

A new edition of this Collection of Decisions on Tithes, by Drapier, edited by Brunet, who has added a treatise on *Champart.*

Roch Drapier, an advocate in the parliament of Paris, was born in 1685, and died in 1734.

See the works of Rebuffi and Grimaudet, *ante*, pp. 131, 136.

VICARS.

RECUEIL DES ÉDITS, Déclarations et Arrêts rendus en faveur des Curez, Vicaires Perpetuels, Vicaires Amovibles, Chanoines et autres Bénéficiers; nouvelle édition augmentée. 12mo. Paris, 1706.

A Collection of Edicts, &c. touching Vicars, Perpetual Curates, &c.

CODE DES CUREZ, ou Nouveau Recueil concernant les Dixmes, les Portions Congrues, les Fonctions, Droits, Honneurs, Exemptions, et Privilèges des Curez, &c. ensemble les Droits Honorifiques des Seigneurs et Officiers, tant de sa Majesté que des Cours supérieures et autres Justices du Royaume. 2 vols. 12mo. Paris, 1736.

The Code of Vicars, or a new Collection on Tithes, &c., the Functions of Vicars, &c.

NOUVEAU CODE DES CURÉS, &c.; contenant 1° un Traité Sommaire de la Matière Curiale; 2° un Recueil relatif au dit Traité, de toutes les Autorités, &c. Par Sallé. 4 vols. 12mo. Paris, 1780.

The new Code of Vicars, containing a Treatise and a Collection of Decisions of the Courts, Enactments, &c. on the subject, by Sallé.

Sallé, an advocate in the parliament of Paris, was born in 1712, and died in 1778.

Part of this work was composed by Forestier.

A most copious list of works, both MS. and printed, on every branch of the ecclesiastical law of France, will be found in the first volume of Lelong's *Bibliothèque Historique de la France*, and also in the second volume (Jurisprudence) of the *Catalogue des Livres imprimés de la Bibliothèque du Roi.*

EVIDENCE OR PROOFS AND WITNESSES.

TRAITÉ DE LA PREUVE PAR TÉMOINS en Matière Civile; par M. Danty, Avocat au Parlement. On a ajouté dans cette troisième Edition, LE TRAITÉ DE LA PREUVE PAR COMPARAISON D'ECRITURES, de M. Le Vayre de Boutigni. 4to. Paris, 1727.

A Treatise on Proofs or Evidence, as furnished by Witnesses, in Civil Causes, by Danty; together with another Treatise on Proofs or Evidence, as furnished by a Comparison of Writings, by Le Vayre. The work is in fact the Commentary of Boiceau in Latin, with a translation into French,

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of the 54th Article of the Ordinance of Moulin, dated 1566; with remarks by Danty on the commentary, and also remarks on another article of the same ordinance, and on the *Ordonnance Civile* of 1667.

The first work (a later edition of which was published in 4to. Paris, 1789) is divided into twenty-nine chapters, to each of which is prefixed a summary of its contents. The second work has no divisions. There is a preface and an index of chapters.

The statutes of several states of Italy, and those of Portugal, bearing on this subject, are extracted.

Roland de Vayre Boutigny, a master of the requests, died in 1685. He was author of other works besides the present, and practised as an advocate in the parliament of Paris.

ESSAI sur la Nature, les différentes Espèces et les divers Degrés des Preuves; par Gabriel. 2 vols. 8vo. Bouillon, 1787.

An Essay, by Gabriel, on the Nature and the different Kinds and Degrees of Evidence.

Gabriel was an advocate at Metz. He was author of various remarks, &c. on the *Coutumes* of Metz, and on the ancient and modern usages of the tribunals within the jurisdiction of the parliament of Metz.

TRAITÉ DES INSCRIPTIONS EN FAUX, et Reconnoissances d'Escritures et Signatures, par Comparaison et autrement; par Jacq. Raveneau, Escrivain Juré. 12mo. Paris, 1704.

A Treatise on the Recognition or Verification of Writings, &c. by Comparison of Handwritings, by Raveneau.

FACULTIES OF LAW.

RECUEIL DE RÈGLEMENS concernant la Discipline des Facultés de Droit, depuis 1679 jusqu'à présent, &c. 4to. Angers, 1745.

A Collection of Regulations concerning the Law Faculties, from 1679 to 1745, together with a Collection of ancient Regulations touching the same subject.

FALCIDIAN PORTION.

The use of this portion was derived from the *Lex Falcidia*. See *ante*, p. 173.

FEUDAL LAW.

It appears, from the authority of the best French writers on the subject, that fiefs were introduced into France at the very earliest period of the monarchy, and that they were made hereditary in the reign of Charles the Bald. The Books of the Fiefs, and the Feudal Constitutions at the end of them (inserted in most editions of the *Corpus Juris Civilis*), do not appear to have been in force in France, except in Dauphiny, and perhaps in one or two other provinces where the Roman law prevailed. They had no authority in those provinces of the *droit écrit*, which were within the jurisdiction of the parliament of Paris.

For a more detailed account of fiefs, and of the feudal system, so far as it regards France, see the article *Fief*, in Merlin's *Répertoire*, in the fourth volume (Jurisprudence) of the *Encyclopédie Méthodique*, and in Denisart's *Collection de Décisions*; and the heading *Fief*, in the various *Coutumes* in Richebourg's Collection (*ante*, p. 26).—See also the Feudal Law portion of this Catalogue.

There were 70,000 *fiefs* and *arrière-fiefs* in France in the eighteenth century.

INSTITUTES FÉODALES, ou Manuel des Fiefs et Censives, et Droits en Dépendans; par M. Germain-Antoine Guyot. 12mo. Paris, 1753.

The Institutes of the Feudal Law, by Guyot.

TRAITÉ DES MATIÈRES FÉODALES, tant pour le Pays coutumier, que pour celui de Droit écrit, avec des Observations; par Germain-Antoine Guyot. 6 vols. 4to. Paris, 1738—51.

A Treatise on Fiefs, by Germain-Antoine Guyot.

Guyot, an advocate in the parliament of Paris, was born in 1694, and died in 1750. He was called *Guyot des Fiefs*, on account of his having devoted the greater part of his life to the composition of works on the feudal law.

DE ORIGINE ET STATU FEUDORUM PRO MORIBUS GALLIÆ Liber Singularis. [From the fifth volume of the works of Alteserra (De Hauteserre), edited by Marotta, in 11 vols. 4to. Naples, 1777—80.]

A Treatise on Fiefs, according to the customary Laws of France, by De Hauteserre. This valuable work consists of one book, which is divided into sixteen chapters. There is a proemium and marginal notes. The headings of the chapters are as follows:

Chapter 1. The origin of fiefs; 2. Fiefs hereditary in France; 3. Feudal offices, &c.; 4. Ecclesiastical fiefs; 5. Lay tithes; 6. Subinfeudations (*arrière-fiefs*); 7. The investiture of the fief; 8. Homage; 9. Feudal services—*ban* and *arrière-ban*; 10. The military condition of fiefs —*francs-fiefs*, ignoble fiefs (*roturiers*); 11. Feudal jurisdiction; 12. Causes or trials in respect of fiefs; 13. The temporal jurisdiction of churches, &c.; 14. The relief in respect of the fief (that is, the taking up of the fee or the investiture after the death of the tenant, by the tenant's successor (*relevamentum feudi*); 15. The alienation and division of the fee; 16. The loss or forfeiture of the fee.

NOUVEL EXAMEN DE L'USAGE GÉNÉRAL DES FIEFS EN FRANCE, pendant le 11e, le 12e, le 13e et le 14e siècle, pour servir à l'intelligence des plus anciens titres du Domaine de la Couronne; par M. Brussel, &c. 2 vols. 4to. Paris, 1727.

A Treatise on the general Prevalence of Fiefs in France, during the Eleventh, Twelfth, Thirteenth and Fourteenth Centuries, by Brussel, a king's counsellor and auditor in the chamber of accounts at Paris.

TREATISES.

Feudal Law.

This very important and curious work is divided into three books, which are subdivided into chapters and sections.

Book 1 treats of fiefs generally, and their different kinds, and of homage.

Book 2 treats of the grand feudatories of the crown, and the rights enjoyed by them.

Book 3 treats of several kinds of fiefs, and of some minor points in their constitution, &c.

There is a collection of letters-patent, charters, treaties, &c. beginning in 1155 and ending in 1380. There is also an account of the king's revenue, ordinary and extraordinary, in 1202. Several valuable documents are also inserted in the notes. There is a copious index to the work.

DE L'USAGE DES FIEFS et autres Droits Seigneuriaux; par Messire Denis de Salvaing, Seigneur de Salvaing et de Boissieu, Conseiller du Roy en ses Conseils, &c. Fol. Grenoble, 1731.

A Treatise on the Use of Fiefs, by Salvaing, one of the king's counsellors, and first president in the chamber of accounts in Dauphiny.

Denis Salvaing de Boissieu was born at Vienne, in Dauphiny, on the 21st April, 1600, and died on the 10th April, 1683. He was author of other works besides the present, which, however, do not relate to law.

The present work treats of fiefs more particularly with regard to the author's native province, and is divided into two parts, which are subdivided into chapters. At the end of the treatise there is a tract intitled *Traité du Plait Seigneurial*. This *plait* was nothing more than a relief payable on the change of the lord or the tenant. The *plait* was divided into three kinds, conventional, customary and arbitrary. This tract is in the form of questions with their answers, and contains several documents.

The treatise on fiefs contains also (interspersed in the work) some decisions of the parliament of Grenoble, and various documents. It was a work of great authority, and the present is the best edition of it. There is an index of chapters and another of subjects.

TRAITÉ DES FIEFS DE DU MOULIN, analysé et conféré avec les autres Feudistes; par M. Henrion de Pansey, Avocat au Parlement. 4to. Paris, 1773.

This is an arrangement, in a new order, of Du Moulin's Commentaries on the Titles of the Customary Laws of Paris, and other Customary Laws, relating to Fiefs, &c.; compared with other writers on the subject. The compiler is not aware that Du Moulin wrote a separate treatise on the subject, as the title-page of the present work would seem to indicate.

The author of this arrangement, Henrion de Pansey, was admitted as an advocate in the parliament of Paris in 1763; he was afterwards first president in the court of cassation, and died in 1829. See the second volume of the *Profession d'Avocat*, for a curious anecdote of De Pansey's noble spirit, in respect of this production; and see also, in the Modern Part of this division of the Catalogue, a collection of his works, including this and the following article; and the *Biographie Universelle* (Supplement), article "Henrion de Pansey," for an account of the author and his works.

The present work is divided into fifteen titles, which are subdivided into articles, many of which have glosses. There is a preface, an *eulogium* of Du Moulin, an introduction, two indices and notes.

Title 1. Of fealty, and of the delay or time allowed for performing the same (*souffrance*); 2. Of fines (*reliefs*); 3. Of the fine called the "fifth" (payable on alienation; 4. Where homage should be paid, &c.; 5. Of *la main souveraine*; 6. Of the account to be rendered to the lord in respect of the land held by the tenant, &c.; 7. Of seizures by the lord; 8. Of the authority of the chief lord of the fee; 9. Of the lord's right of redemption; 10. Of the splitting or dismembering of the fee; 11. Of the tenant's power to dispose of his fee or inheritance (*jeu de fief*); 12. Of confiscation; 13. Of prescription; 14. Of the succession to fiefs or fees; 15. Of *allodium*.

DISSERTATIONS FÉODALES; par M. Henrion de Pansey, Avocat au Parlement. 2 vols. 4to. Paris, 1789.

Dissertations on the Feudal Law, by De Pansey.

This work was intended to be comprised in six volumes; it ends with the article "Justice." The alphabetical order is adopted, in the manner of a digest; each article is divided into paragraphs, to which summaries are prefixed.

RECHERCHES ET OBSERVATIONS SUR LES LOIX FÉODALES, sur les anciennes Conditions des Habitans des Villes et des Campagnes, &c.; par M. Doyen, Avocat. 8vo. Paris, 1779.

Researches and Remarks on the Feudal Laws, &c. by Doyen, an advocate in the parliament of Paris.

THÉORIE des MATIÈRES FEODALES ET CENSUELLES; par Hervé. 8 vols. 12mo. Paris, 1785.

The Theory of Fiefs, &c. by Hervé, an advocate in the parliament of Rennes, who afterwards settled at Paris.

CODE DES TERRIERS, ou Principes sur les Matières Féodales, avec un Recueil sur cette Matière. 12mo. Paris, 1761.

The Code of Terriers, containing the Principles relating to Feudal Matters, with a Collection of Enactments, &c. touching those Matters.

Schilterus: de Paragio, Apanagio et Feudis Juris Francisci. 4to. Strasburg, 1701.

A Treatise, by Schilter, on *Parage*, Apanage and Fiefs, according to the Laws of France.

The term *parage* had several significations, the two principal of which were the following. The word was employed to denote the portion which a daughter (being a lady of quality) could claim of her brothers after the decease of her father and mother, in order that she might be married suitably to her rank. Such a marriage was termed in the customary laws *aparager*,

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whereas an unsuitable or unequal marriage was termed *desparager*; and a daughter thus married suitably to her birth, &c. was said to be *emparagée*. See the customary laws of Normandy, *ante*, p. 27, and the article *Mariage avenant*, in Ferrière's *Dictionnaire*. The other acceptation of the word *parage*, and which was more generally in use, denoted a kind of tenure, whereby the eldest of the co-heirs of a fief did homage and fealty to the superior lord for the whole of the fee, while the other co-heirs held their shares without doing homage to any one. See the article *Parage*, in the sixth volume (Jurisprudence) of the *Encyclopedie Méthodique*; and *supra*, Brussel and Guyot's treatises, p. 265.

Ferrière, in his *Dictionnaire*, article *Parage*, mentions a treatise on this subject by M. Bertet, an advocate in the parliament of Paris, intitled *Traité du Droit de Parage*.

Noms Féodaux, ou Noms de ceux qui ont tenu Fiefs en France, depuis le 12e Siècle jusque vers le milieu du 18e, extraits des Archives du Royaume; par un Membre de l'Académie des Inscriptions et Belles-Lettres, &c. [M. P.-L.-Jos. de Batencourt.] Vols. I., II. 8vo. Paris, 1826.

The Names of those who held Fiefs or Fees in France, taken from the Registers of the Kingdom. This is the first part only of the work, and comprises the provinces and *pays* of Anjou, Aunis, Auvergne, Beaujolois, Berry, Bourbonnois, Forez, Lyonnois, Maine, Marche, Nivernois, Saintonge, Touraine, a part of Angoumois and Poitou. There is an *avertissement* and an introduction. To each article is added a reference to the register whence it was taken.—See *infra*, "Peerage" and "Seigneuries."

Franc-Alleu.

This term meant *allodium*, or land held without being subject to any rent, service, or acknowledgment to a superior. In almost all the provinces of France which were governed by the Roman law (*pays de droit écrit*), all the lands were held to be *francs-alleus*, or allodial, unless a title could be shown to the contrary; but in the *pays coutumiers*, or provinces governed by customary laws, the maxim "*nulle terre sans seigneur*" generally prevailed.

The term *franc-alleu* also meant an inheritance absolutely independent, so that sovereignties alone could in that sense be *francs-alleus*.

Le Franc-Alleu et Origine des Droits Seigneuriaux, &c.; par Galland. Fol. Paris, 1637.

A Treatise, by Galland, on the Allodial Lands of Languedoc. To this treatise are added the laws or constitutions granted to the *pays d'Albigeois* by Simon, Earl of Montfort; the privileges granted by Louis IX. to the town of Aigues-Mortes in 1246; and the ancient privileges of Lorris, granted by Louis le Gros.

This treatise is stated to have been written on the occasion of the deputies of the province of Languedoc endeavouring to establish in the king's privy council that fiefs in the *pays de droit écrit* were free from the seigneurial

dues payable to the king, and were held as *francs-alleus*. The council decided against them; and Galland wrote this work in defence of the decision of the council. The work, which forms the next article in this Catalogue, was written in opposition to Galland's work.

Auguste Galland, a counsellor of state, was born about 1570, and died previously to the year 1647. He was author of other works besides the present.

LE FRANC-ALLEU DE LA PROVINCE DE LANGUEDOC, établi et défendu; par Pierre de Caseneuve. Fol. Toulouse, 1645.

This is a new edition of Caseneuve's Work on the Allodial Lands of Languedoc, which was written in opposition to Galland's work on the same subject. To this work is added a treatise on the origin, &c. of the states-general of Languedoc.

Pierre de Caseneuve was born at Toulouse on the 31st October, 1591, and died in 1652. He was educated for the church and the law, and had a prebendal stall in the cathedral church of St. Étienne, at Toulouse. A list of his works, both printed and manuscript, will be found in the *Biographie Universelle*, article "*Caseneuve*," and at the beginning of the first volume of Ménage's *Dictionnaire Etymologique de la Langue Françoise*, ed. Paris, 2 vols. fol. 1750.

See Furgole's works, *ante*, p. 159.

DE PRÆROGATIVÂ ALLODIORUM in Provinciis quæ Jure Scripto reguntur, Narbonensi, et Aquitanicâ, M. Antonii Dominicy, J. C. Historica Disquisitio, &c. [From Schilter's Codex Juris Alemannici Feudalis. 4to. Strasburg, 1697.]

A Treatise on the Allodial Lands of the South of France (to the South of the Loire). The work, which is divided into twenty-two chapters, treats of the origin of fiefs, allodial lands, emphyteutic contracts, censual contracts, *champarts*, &c.

The author, Marc-Antoine Dominicy, an eminent lawyer, was born at Cahors in the sixteenth century, and died at Paris about 1650. He composed other works besides the present.

FRANCS-FIEFS.

A *franc-fief* was a tax payable every twenty years to the crown, on fiefs possessed by *roturiers*; or, as defined by some authors, a tax payable by *roturiers* for the fiefs, or other *noble* property possessed by them.

An attempt to require the immediate payment of this tax six years before it was due, in 1648, was met on the part of the parliament by an effectual opposition.

DE L'ORIGINE DU DROIT D'AMORTISSEMENT, par Eusèbe de Laurière. 12mo. Paris, 1692.

On the Origin of the Impost on Mortmains, by De Laurière.

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DES AMORTISSEMENS, NOUVEAUX Acquêts, et Francs-Fiefs, &c.; par le Sieur Jarry, 12mo. Paris, 1717.

On the Impost on Mortmains, &c. by Jarry.

JURISPRUDENCE du Conseil sur la Matière des Amortissemens, Francs-fiefs, Nouvel Acquêt et Indemnité, &c.; par Dubost. 3 vols. 4to. Paris, 1759.

The Practice of the Council on the Impost of Mortmains, by Dubost.

RECUEIL des Règlemens concernant les Droits d'Amortissemens, Francs-fiefs, Nouveaux Acquêts et Usages, &c. depuis 1275 jusqu'en 1774—77. 4to. Paris, 1729—1775.

A Collection of Regulations, &c. concerning the Impost on Mortmains, from the year 1275 to the year 1774.

GABELLE.—See *infra*, TAXES.

GARDE NOBLE ET BOURGEOISE.

This was a privilege granted to the fathers and mothers and other ancestors of minors, of enjoying the revenues of their property during such minority, &c. they providing nevertheless for the minor. *Garde noble* applied to the wardship of the property of noblemen or gentlemen, and the other to the *bourgeois*, &c.

TRAITÉ de la Garde Noble et Bourgeoise; par Merveilleux. 12mo. Angers, 1763.

A Treatise on Wardship, both noble and *roturière*, by Merveilleux.

See also Renusson's works, *ante*, p. 154, and Pothier's works, No. 17, *ante*, p. 166.

GESTATION (CASES OF PROTRACTED).

See the *Causes Célèbres*, Nos. 153 and 154, *ante*, p. 114.

GUARDIANSHIP.

In the provinces governed by the Roman law (*pays de droit écrit*), there were three kinds of guardianship (*tutelle*), namely, testamentary, legitimate or legal, and dative. The first kind was created by will; the second was that which devolved by law on the nearest relation of the children, in default of a testamentary appointment. The third kind was in the appointment of the magistrate, in default of the testamentary appointment and the legal guardianship.

In the *pays coutumiers*, the only guardianship in use was the dative.

AZILE OU DEFFENCE DES PUPILZ, contenant un Traité bien ample des Tutelles et Curatelles; composé par Jean Gillet. 4to. Paris, 1686.

The Defence of Wards, or a Treatise on Guardianship, by Gillet.

Jean Gillet was *lieutenant* in the presidial court of Verdun.

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NOUVEAU TRAITÉ DES TUTELLES et Curatelles, avec le Commentaire de l'Édit des Secondes Nôces et celuy des Mariages Clandestins; par Jean Gillet. 4to. Paris, 1686.

A new Treatise on Guardianship, by Jean Gillet.

TRAITÉ DES TUTELLES ET CURATELLES, de la Division des Choses, &c.; par Louis Astruc. 12mo. Toulouse, 1752.

A Treatise on Guardianship, &c. by Astruc.

TRAITÉ DES TUTELLES, divisé en Quatre Parties: où les Questions dont il se trouve composé sont décidées conformément à la Disposition du Droit Romain, à la Doctrine des meilleurs Auteurs, &c. Par Me Jean-Antoine Ferrière, Avocat au Parlement de Toulouse. 4to. Toulouse, 1766.

A Treatise on Guardianship, according to the Roman Law, the Doctrines of the most approved Authors, and the Decisions of the Courts; by Ferrière, an advocate in the parliament of Toulouse.

Jean-Antoine Ferrière was the son of Claude de Ferrière, *ante*, p. 260.

The treatise is divided into four parts, which are subdivided into chapters and sections or paragraphs. There is an index to the work.

Parts 1, 2, treat of the right of appointing guardians, and who may not be so appointed; 3. What persons may be appointed guardians, and whether they are at liberty to refuse the appointment; 4. Of the extent of the obligations of guardians to their wards; and of the nature of the obligations of the wards to their guardians.

HEIR.—See *infra*, SUBSTITUTIONS, SUCCESSIONS and WILLS.

HISTORY OF THE LAW.

PRÉCIS Historique du Droit Français, par l'Abbé Fleury; avec la Continuation depuis 1674 jusqu'en 1789, par M. Dupin, Docteur en Droit, &c. 24mo. Paris, 1826.

This is a short but very useful and valuable History of the Laws of France, by the *Abbé* Fleury, and continued by Dupin, from 1674 to 1789. This work was originally printed in 1674: it is also prefixed to Argou's *Institution au Droit François* (see *ante*, p. 126), and was translated into English by J. T. B., and printed in 8vo. London, 1724. It is divided into twenty-seven sections, which treat of the laws of the Gauls; the laws of the Romans in Gaul; the manners and laws of the various German nations, &c.; the laws of the Franks under the first and second line of French kings; the capitularies; the Roman law under the second line of the kings; the unsettled state of France in the tenth century; the *seigneurs* and fiefs; the rights of the *communes;* the ecclesiastical jurisdiction; the origin of the *coutumes;* the revival of the Roman law; the digesting of the *coutumes;* the ordinances of the kings.—At the end of Dupin's Continuation there is a list of his numerous works.

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History of the Law.

RECHERCHES POUR SERVIR À L'HISTOIRE DU DROIT FRANÇOIS. [Par M. Grosley.] 12mo. Paris, 1752.

Researches or Conjectures on the Origin of the Customary Laws of France, by Grosley, an advocate at Troyes.

Pierre-Jean Grosley was born at Troyes, in Champagne, on the 18th November, 1718, and died on the 4th November, 1785. A list of his numerous works (only one of which, besides the present, relates directly to the law) will be found in the interesting article on this author in the *Biographie Universelle*, article "Grosley."

The object of this work, which is divided into three sections, and subdivided into chapters and paragraphs, is to maintain the Gaulish origin of the customary laws of France. It is an ingenious work. The first chapter states that northern Gaul partly preserved its liberty, and did not become quite Romanized. The second chapter, that the *coutumes* did not originate in the troubles of the tenth and eleventh centuries, nor in the feudal law. The third chapter, that the Roman law under the Gauls did not prevail north of the Loire.—There is an *avertissement*, notes, and a plan or index.

DE L'ORIGINE et des Progrès de la Législation Française, ou Histoire du Droit Public et Privé de la France, depuis la Fondation de la Monarchie jusques et compris la Revolution; par M. Bernardi, de l'Académie Royale des Inscriptions et Belles-Lettres. 8vo. Paris, 1816.

On the Origin and Progress of the French Law, or a History of the Public and Private Law of France, from the beginning of the Monarchy till the Revolution in 1789 inclusively; by Bernardi, a member of the *Académie des Inscriptions et Belles-Lettres*.

Joseph-Elzéar-Dominique Bernardi, formerly an advocate in the parliament of Aix, was born on the 16th February, 1751, and died on the 25th October, 1824. He composed several other works on French law, a list of which is given in the *Biographie Universelle* (Supplement), article "Bernardi."

The work is divided into nine books, which are subdivided into chapters.

Book 1 treats of the Gauls and Franks under the first line of the kings of France; 2. Of the legislation under the second race of kings; monastic institutions, &c.; 3, 4. Of the laws under the third race, till the twelfth century; the feudal system; 5—7. Of the revival of the study of the law; the parliaments; changes in the law; the king's majority, or coming of age; curbs on the ecclesiastical jurisdiction; the Gallican church; the pragmatic sanction; sales of offices; 8, 9. Of the legislation in the sixteenth, seventeenth, and eighteenth centuries; the legislation during the Revolution; the new codes of law; the influence of the Revolution on persons and property.

ORIGINES du Droit Français cherchées dans les Symboles et Formules du Droit Universel; par M. Michelet. 8vo. Paris, 1837.

The Origin of the French Law, sought in the Symbols and Forms of the Laws of all Nations, by Michelet.

The author was lately the head (*chef*) of the historical department in the Record Office (*archives*) of France, and is also author of a History of France and of several other historical works.

The work is divided into five books, which are subdivided into chapters. There is an introduction, which treats of the following subjects:—the legal biography of man—family—property—the state—trials—judgments—war—juridical symbols—nationality of symbols—ages of symbols—equivocal character of symbols—anti-symbolism.

Book 1. THE FAMILY: its relative bearings of child, husband, marriage, and their several incidents; relationship or kinship; inheritance or succession.

Book 2. PROPERTY: its relation to occupation, possession, delivery, or seisin of property.

Book 3. THE STATE: its relations of king, noble, freeman; the election and coronation of the kings, their progresses through their dominions, their courts and great officers; chivalry, banners, armorial bearings, devices, standards, names, &c.; and feudal tenure, its jurisdictions, rents, serfs.

Book 4. WAR: law proceedings, penalties; challenges, summonses, &c., trials, judges and juries, disinterment of the dead for the purposes of justice, sanctuaries, oaths, ordeals and duels, animals produced in court as proofs or witnesses, confessions, appeals, compounding of justice, executions, degrading punishments, usury, insolvent debtors, banishment.

Book 5. Old age—burial.

This is a very curious work. It is stated to be mainly grounded on Jacob Grimm's work on the antiquities of the German law, entitled *Deutsche Rechts Alterthümer*, in 2 vols. 8vo. Gottingen, 1828.

TRAVAUX SUR L'HISTOIRE DU DROIT FRANÇAIS, par feu Henri Klimrath, Docteur en Droit. Recueillis, mis en ordre et précédés d'une Préface, par M. L. A. Warnkönig, &c. 2 vols. 8vo. Paris and Strasburg, 1843.

A Collection of the Works of the late M. Klimrath, relating to the History of the French Law, edited by Warnkönig.

Henri Klimrath, a doctor of laws, was born at Strasburg, in 1807, and died in 1837.

There is a preface to the first volume, which contains an interesting account of Klimrath and his labours; and a coloured map of France, showing which of the provinces were governed by their customary laws, and those wherein the Roman laws were followed.

The contents of the volumes are as follows:—

Vol. I.—1. *Essai sur l'Étude Historique du Droit et de son Utilité pour l'Interprétation du Code Civil*,—an Essay on the Study of the Law, &c.

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2. *Importance, &c. d'une Histoire du Droit Français,*—the Importance of a History of the French Law.
3. *Programme d'une Histoire du Droit Français,*—a Programme of a History of the French Law.
4. *Le Droit Français considéré dans son Origine, &c.,*—the Law of France considered in regard to its Origin, &c.
5. *Histoire du Droit Public et Privé de la France,*—a History of the Public and Private Law of France. This is merely a sketch of a history.

Vol. II.—6. *Mémoire sur les Monuments inédits de l'Histoire du Droit Français,*—a *Mémoire* on some unpublished Records of the History of the French Law,—namely, the *Livre de la Reine Blanche, Les Estatou dou Royaume de France, Un ancient Coutumier de Picardie* [published by Marnier in 8vo., Paris, 1840].

7. *Mémoire sur les Olim et sur le Parlement,*—a *Mémoire* on the Olim (see *ante*, p. 92) and the Parliament of Paris.
8. *Notice sur le Livre de Justice et de Plet,*—a notice on the book styled *Le Livre de Justice et de Plet.* (See *ante*, p. 43.)
9. *Études sur les Coutumes,*—Studies on the Customary Laws.
10. *Études Historiques sur la Saisine, &c.,*—Studies on Seisin, according to the Customary Laws of the Middle Ages.
11. An appendix, containing extracts, or rather a short selection of subjects, affecting the French law, which are treated on in Sismondi's *Histoire des Français.*
12. *Résumé de la Philosophie du Droit, &c.,*—a Summary of the Philosophy of Law, according to the historical view of Fréderic-Jules Stahl.

In the first volume there are reviews of three modern works on the French law,—namely, Laferrière's *Histoire du Droit Français,* Brewer's *Geschichte der Französischen Gerichtsverfassung* (History of the Judicial Institutions of France), and Michelet's *Origines du Droit Français, &c.*

Essai sur l'Histoire du Droit Français au Moyen Age, par M. Ch. Giraud. Vols. 1, 2. 8vo. Paris, 1844.

An Essay on the History of the French Law in the Middle Ages, by Giraud. The work is intended to be completed in four or five volumes. A review of the first two volumes will be found in the third volume (for the year 1845) of the *Revue de Législation et de Jurisprudence,*—a work that is noticed at the end of the modern part of this division of the Catalogue.

Histoire du Droit Civil de Rome, et du Droit Français, par M. F. Laferrière, &c. Vols. I. II. 8vo. Paris, 1845-6.

A History of the Roman or Civil Law and the French Law, by Laferrière, a professor of law at the law faculty of Rennes.

The author of this work had previously begun another work on the

history of the French law, in 2 vols. 8vo. Paris, 1838. The present work may be considered as entirely superseding the other.

FRANZÖSISCHE Staats- und Rechtsgeschichte, von L. A. Warnkönig und L. Stein. 3 vols. 8vo. Basle, 1846—48.

A History of the French Law, both Constitutional or Public, and Private, by L. A. Warnkönig, Th. A. Warnkönig, and L. Stein. This is by far the most comprehensive and important history of the laws and jurisprudence of France that has been published. It reaches down to the Revolution in 1789. The first volume (by L. A. Warnkönig) contains the history of the Constitutional or Public Law of France; the second (by L. A. Warnkönig and Th. A. Warnkönig) contains the history of the sources of the law generally, and of the private law in particular; and the third volume (by L. Stein) treats of the feudal sovereignties, the administration of the law, the criminal law, and of civil and criminal process.

Each volume has a double title page and a preface; and there are notes throughout the volumes, which refer to laws and treatises down to the present year (1848).

The first and second volumes are divided into books, and subdivided into chapters, sections, &c. The third volume has other divisions. The first volume has an introduction, which contains a list of books on the general history and laws of France, and also a list of books (under the headings of the different provinces) relating to the general history and public law of the provinces *separatim*. The second volume contains a general index to the whole work.

The contents of the volumes are as follows:—

Vol. I.—Book 1. Chap. 1, 2. The space of time before the Frankish conquest, namely, the Keltic and Roman periods [the second chapter contains an enumeration of the various divisions of Trans-Alpine Gaul]; 3. The introduction of Christianity.

Book 2. The Frankish period. Chap. 1. The conquest of Gaul by the Germans, the Burgundians, the Wisigoths or West-Goths, the Ostro-Goths or East-Goths, the Almanns or Allemanns (Alemanni), and the Franks; 2. The history of the Frankish constitutional or public law, from the death of Clovis till the compact or treaty of Verdun in 843; 3. The West-Frankish kingdom under the later kings of the Carlovingian line; 4. The Frankish constitution and government during this period.

Book 3. Period from 987 to 1285. First division. Chap. 1. The constitutional or public law of the Franks or French till the year 1285; 2. The extent of the kingdom, its provinces, and the bordering states. [This chapter contains an enumeration of the charters granted to the different cities and *communes* during this period.]

Book 4. Period from 1285 till 1483. Second division. Chap. 1. The history of the constitutional or public law till the year 1483; 2. The extent of the kingdom, its provinces, and the bordering states; 3. The French constitution and government during this period.

Book 5. Period from 1483 to 1789. Chap. 1. General history till

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1789; 2. The extent of France, its provinces; 3. The constitution and government during this period.

Vol. II.—Book 1. History of the sources of the law, and of the science of jurisprudence in France. Chap. 1. The sources of the law during the Frankish period; 2. The sources of the law during the feudal period; 3. History of the sources of the law and of the science of law, from the end of the fifteenth century.

Book 2. The rights of persons. Chap. 1. The relative condition of persons; 2. The relation of families.

Book 3. The rights of things. Chap. 1. Of things generally; the possession and rights of the same; 2. The real rights in other persons' property.

Book 4. Successions or inheritances. Chap. 1—3. The law of succession during the Frankish period, the feudal period, and the time of the *coutumes*.

Book 5. Of the law of contracts (*von den Forderungsrechten*). Chap. 1. A general historical introduction; 2. An historico-dogmatical view of the law of obligations, &c.

At the end of this volume (and with a separate paging), are the following illustrations:—1. Sources of the *ancien coutumier* of Normandy, consisting of the statutes and *coutumes;* 2. The assizes of Normandy for the years 1234—1237; 3. Some decisions of the Exchequer of Normandy for the years 1207—1296 (see *ante*, p. 29); 4. Extracts from several of the French customary laws; 5. The titles (in full) of the *Livre de Justice et de Plet* (see *ante*, p. 43); 6. A list of the titles of Masuer's *Pratique* (see *ante*, p. 41); 7. The ordinance on donations (1731), on wills (1735), and on substitutions (1747).—See Furgole's works, *ante*, p. 159.

Vol. III.—The subjects treated on in this volume are—1. The feudal system; 2. The municipal corporations, *communes*, &c. (*die gemeinden*); 3. The church; 4. The king's royal authority or power (*königthum*).

1. The Feudal System. Under this heading are treated the following subjects:—the feudal system and the feudal law; the origin of the feudal system, and its constitution; the barons and other *seigneurs*, &c., and their administration of justice; the freemen, and villains and serfs; the court of peers, court of barony; homage, fealty, and fiefs; the feudal penal justice; civil and criminal process [the former is treated in detail].
2. The Municipalities, &c. The subjects treated under this heading are the following:—the origin of the new *communes*, &c. in France; characteristics of the French system of *communes;* the penal laws and process in the *communes*, &c.
3. The Church. Under this heading are treated the following subjects:—the church of France and its administration of justice; the church's jurisdiction in relation to the feudal system; the jurisdiction of the church, and the officialties; the church, and the conflicts as to its competency, till the fourteenth century; the

development of the opposition or conflict between the spiritual and temporal jurisdictions.

4. The King's Royal Authority. The subjects treated on under this heading are as follows:—

First Epoch.—The feudal sovereignty, from the tenth to the thirteenth century; its character and the judicial authority (*thätigkeit*) of the king.

Second Epoch.—The development (*ausbildung*) of the new sovereignty in the twelfth and thirteenth centuries; the organization of the kingdom, its bailiwicks, seneschalsies, &c.; the parliament; the king and his royal power; the foundation of the new legislation.

Third Epoch.—The conflict in the organization of the royal authority, its final victory and rights; the sovereignty and the states general; the new legislation and the new administration of the law, &c.; the criminal law and process; the civil law process [this is given in detail].

Fourth Epoch.—From the sixteenth century till the Revolution in 1789; the absolute monarchy; character of the new state (*staat*); legislation; the criminal law and process; civil process, including appeals, summary process, &c.; criminal process [in detail]; appeals.

Huissiers-jurés-Vendeurs de Meubles, or Huissiers-priseurs and Serjeants.

These were officers who had the exclusive right of valuing moveable property, and of selling by public auction such moveable property as was put up to sale, either voluntarily or by judicial decree. They are replaced by the modern *commissaires priseurs*. See the modern part of this division of the Catalogue, among the treatises, the article "Commissaires Priseurs."

Nouvelle Instruction, ou Style général des Huissiers et Sergens. Par P. Néel Duval, S^r^ de la Lissandrière. 12mo. 1776.

The Style of Huissiers, &c. by the Sieur de la Lissandrière.

Manuel des Huissiers, ou Nouvelles Instructions; par Ouin. 12mo. Paris, 1775.

The Huissier's Manuel, by Ouin.

Recueil des Statuts, &c. concernant les Charges et Privileges attribuez aux Offices de Chevaliers Huissiers, Servans à Cheval au Châtelet de Paris; par N. Chocquart. 8vo. Paris, 1648.

A Collection of Enactments concerning the Office of the *Chevaliers huissiers* of the *Châtelet* of Paris, by Chocquart.

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Husband and Wife.

See *supra*, "Conquêts" and "Dower;" and *infra*, "Marriage," "Paraphernalia," "Successions," and also Pothier's works, Nos. 15, 16, 19, 20, 21, pp. 165—167.

Hypothèques.—See Conservateurs des Hypothèques, and Mortgages.

Inquisition.

Histoire de l'Inquisition en France, depuis son Établissement au 13e Siècle, à la Suite de la Croisade contre les Albigeois, jusqu'en 1772, Époque définitive de sa Suppression. Par E. L. B. De la Mothe-Langon, Auditeur à l'Ex-conseil d'État Impérial, &c. 3 vols. 8vo. Paris, 1829.

History of the Inquisition in France, from the time of its Establishment in the 13th Century, to the time of its Suppression in 1772, by De la Mothe-Langon.

This is an important work. It contains an historical preface, wherein is given a full account of the writer on the war against the Albigenses, &c., and an introduction. The latter contains a treatise on the inquisition in France, considered as a tribunal of justice; this is divided into five titles, which are subdivided into sections. The first title treats of the composition of the tribunal, its officers and assistants; of the tribunal becoming a royal court; its sittings, the costume of its officers, &c.; its seal, armorial bearings, registry, &c. The second title treats of the inquisitors, their functions, &c. The third title treats of the proceedings before the tribunal or court. The fourth treats of penalties, &c. These two titles are very curious.

The work itself is divided into seventeen books, to each of which there is prefixed a summary of its contents, and each book has numerous valuable historical and biographical notes. The date of the year is given at the top of every page, and the history is regularly deduced from the year 1147. It includes a most excellent account of the cruel war against the Albigenses at the beginning of the 13th century, which was styled a "*crusade*." Each volume has notes and an analytical index. The third volume contains a chronological index of events relative to the inquisition in France. This is a series of the most awful cruelties committed by the inquisitors and crusaders at Toulouse and elsewhere, beginning in 1178 and ending in 1635. There is also a list of the legates of the court of Rome, who acted as inquisitors-general in France; lists of inquisitors at Toulouse and Carcassonne; and a list of other inquisitors mentioned in the work.

Insinuation.

This term meant the registration of deeds and other acts, and wills. Nearly every act relating to the transfer of property, or in any manner affecting it (except mortgages), was required to be registered. The earliest enactment on this subject appears to be the edict appointing a *greffier des insinuations* in every bailiwick, &c. (1553). The other principal ordinances, &c. affecting *insinua-*

tions, are as follows:—that of 1566, that of 1691 (for the acts of the clergy), that of 1703 (this is very minute), and that of 1721 (for wills). These enactments will be found in the *Recueil Général des Anciennes Lois*, &c.

Much valuable and curious information on the important subject of *insinuation* or registration, and also on the formalities required in France before the Revolution in 1789, in respect of sales, donations, wills, mortgages, &c. will be found in Mr. C. Purton Cooper's work, entitled "Notes respecting Registration and the extrinsic Formalities of Conveyances," published (one part only) in 8vo. London, 1831. This work is reviewed in the fifth volume (1831) of the "Law Magazine, or Quarterly Review of Jurisprudence," printed in London, in 8vo. The writer of the article in the Review, which is entitled "State of the Registration Question," quotes a passage from a letter written by an eminent French lawyer, wherein the writer states, that the view given by Mr. Cooper of the ancient French jurisprudence, on the publicity of mortgages, is truly astonishing, and so perfectly accurate, that he (the writer) doubts whether many of the French lawyers (of the present day) could compose such a work, without much research and much labour. The compiler of this Catalogue begs to add his testimony to the value and accuracy of the information contained in the "Notes."

MAXIMES sur les Insinuations des Donations, et Publications des Substitutions (par Biarnoy de Merville). 12mo. Paris, 1736.

Maxims on the Registration of Donations, and the Publication of Substitutions, by Biarnoy de Merville.

INSTITUTION CONTRACTUELLE.

An *institution contractuelle* was an irrevocable gift, by deed, and in consideration of marriage, of an inheritance (*succession*), or of a part of an inheritance, made either by the father and mother of the party for whose benefit such institution took place, or by a stranger. In both cases, it was to be for the benefit of one of the married parties, or of his or her children. This custom prevailed throughout all France, except in the province of Berry: it was observed in the *pays de droit écrit*, as well as in the *pays coutumiers*. See the second volume of Argou's "*Institution au Droit Français*," *ante*, p. 126.

INSTITUTION OF HEIR.

This term meant the necessary appointment to be made by a testator, in direct and imperative words, of a person or several persons to succeed to all his property and rights (*à tous ses droits actifs et passifs*); without such an appointment no will was valid. This institution was derived from the Roman laws, and prevailed in the *pays de droit écrit* only. Unless in fact, in the *pays de droit écrit*, an heir was instituted, there was no will. If the instituted heir died before the testator, the will was considered as of no effect.

Institutions of heirs did not take place in the *pays coutumiers*. In these *pays*, an individual might be appointed "universal legatee," but not heir—inasmuch as there could be no other heirs (according to the *coutumes*, which Ferrière pithily remarks, in his *Dictionnaire*, "furnish us with heirs *malgré nous*") than those of a man's own blood; and consequently the heirs succeeded to inhe-

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ritances, by operation of law, and according to their nearness of blood, &c. to the deceased owner. See *infra*, "SUBSTITUTIONS," "SUCCESSIONS," and "WILLS."

INSURANCE (MARITIME).

TRAITÉ DES ASSURANCES ET DES CONTRATS À LA GROSSE. 2 vols. 4to. Marseilles, 1783.

A Treatise on Marine Insurances and Bottomry, by Émérigon.

Balthasar-Marie Émérigon, the author of this treatise on bottomry and *ad respondentia* and marine insurances, was born in 1716: he was an advocate in the parliament of Paris, and a counsellor in the admiralty court at Marseilles, and died in 1784.

The part of this treatise (or rather treatises) which relates to insurances is divided into twenty chapters, and that relating to bottomry into twelve; and they are both subdivided into sections and paragraphs. There is a preface, containing a notice of the laws of the Rhodians, Romans, Marseillese, and of Oleron, Wisbuy, Barcelona, and the Hanse Towns, on the subject of the treatises, as well as of the *Consolat del Mar*.

1. MARINE INSURANCES.—Chap. 1. General remarks; 2. Of the form of contracts of assurance; 3. Of the premium; 4, 5. Of the parties to such contracts; 6. Of the ship; 7. Of the captain; 8. What things may be insured; 9. Of the valuation and estimation; 10. Of the thing insured; 11. Of the proof that the thing insured has been put in risk or peril (*mise en risque*); 12. Of maritime risk; 13. Of the time and place of the risk; 14. Of the proof of the loss; 15. Of the insurance made after the loss, or the safe arrival of the thing insured; 16. Of the return of the premium (called *stourny* or *ristourne*); 17. Of the abandonment of the ship, &c. (*délaissement*); 18. Of the payment of the insurance money; 19. Of prescription; 20. Of judgments.
2. ON BOTTOMRY, &c.—Chap. 1. General remarks; 2. Of the form of a bottomry bond; 3. Of the premium or interest; 4. Of the *action exercitoire*; 5. Of the things which may become objects of bottomry; 6. Of the return of the premium; 7, 8. Of risk; 9. Of the payment of the bottomry bond; 10. Of sureties; 11. Of the extinguishment and nullifying of contracts of bottomry; 12. Of the special claims (*privilèges*) of the insurer on the things insured.

An improved edition of this work, by Boulay-Paty, was published at Rennes, in 2 vols. 4to. 1827. At the end of the second volume of this edition are some remarks on the commerce of America, in respect of imports; a vocabulary of sea-terms; and an addition of three tracts. And the whole work is compared throughout with the modern *Code de commerce* of France. There is also a good index of subjects.

See Pothier's works, No. 11, *ante*, p. 164.

The compiler has not met with a separate treatise on insurances on lives and against fire. Companies were formed for those objects, a year or two before the Revolution in 1789.

Interest.

Traité des Usures, ou Explication des Prests et des Intérêts par les Loix qui ont été faites en tous les Siècles. [Par M. Collet]. 12mo. Lyons, 1690.

A Treatise on Interest, &c. by Collet, an advocate in the parliament of Dijon.

Pierre Collet was born at Châtillon-les-Dombes, in 1643, and died on the 30th March, 1718. He was author of several other works besides the present.

This work is divided into ten chapters, which treat principally of interest or usury, as existing among the Jews, the Greeks, the Romans and the early Christians, and also among modern nations.

Traité des Intérêts des Créances, suivant les Loix et Usages observés, tant en pays coutumiers, qu'en pays de droit écrit; par Me Bertrand-Louis le Camus d'Houlouve. 12mo. Paris, 1774.

A Treatise on Interest due on Credits, &c. according to the Laws of France, by Le Camus d'Houlouve.

Question de l'Usure éclaircie, par Beurrey. 4 vols. 12mo. Paris, 1786-7.

A Treatise on Usury, by Beurrey.—See the "*Profession d'Avocat*," vol. ii. pp. 349-50; and Du Moulin's works, *ante*, p. 134.

Jurisdiction.

With respect to the administration of justice in Gaul during the period of the Roman sway, an account will be found in that division of the Catalogue which comprises the Roman or Civil law.

Under the first line of the kings of France, justice was at first administered in the general assembly of the nation (*mâl* or *mallum*), at which the king presided. These assemblies were composed of the chief men of the nation; and in them were heard the complaints of the people, audience was given to ambassadors, and regulations made for the good of the state. The national assemblies were held more or less frequently (see *infra*, "*States General*"), according to circumstances and the importance and multitude of affairs. During the intervals of the meetings of the national assemblies, and also in after times, justice was administered by the dukes, and counts or *grafiones*. To them also was confided the administration of the royal revenues, as well as the command of the armies. These judges were assisted in the decisions of causes by certain other inferior judges called *rathimburgi* or *rachimburgi* and *scabini*; and were apparently what the counsellors (*conseillers*) were in more recent times.

The dukes appear to have been originally governors of provinces or large districts, and the counts governors of cities, &c. In the course of time, the number

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of the dukes and counts was so multiplied that every *pagus* had its duke or count. To these magistrates are to be added, during the second line of kings, certain special magistrates, termed *missi dominici* (see *infra*, the heading "MISSI DOMINICI." The power and authority of the dukes and counts and *missi dominici* became afterwards vested in the bailiffs and seneschals. (See *ante*, p. 204.) The *prévôts* also participated in this jurisdiction.

The jurisdiction of the *seigneurs* was derived from the establishment of the feudal system. Appeals from the decisions of these judges were originally brought before the king's court (afterwards called, as is generally supposed, the parliament of Paris). In later times, appeals from the decisions of the judges or the *seigneurs* lay generally to the bailiwicks and seneschalsies, &c. See *ante*, pp. 204—206.

Jurisdiction, or the right of administering justice, was, previously to the Revolution in 1789, divided into—1. Lay, Secular, or Temporal; 2. Ecclesiastical.

1. THE LAY JURISDICTION.—This was exercised by judges appointed by the king, and by the *seigneurs* or lords of fiefs, territories, &c. Those judges that were appointed by the king were termed royal judges, and their jurisdiction "*la justice royale*;" and the judges appointed by the *seigneurs* were called seigneurial judges, and their jurisdiction was styled "*la justice subalterne*," or "*justice*," or "*la justice des seigneurs*;" they were also called subaltern judges. Of the seigneurial judges, those only who had what was termed *la haute-justice* had the *jus gladii*, or the right of punishing criminals capitally. In respect of the jurisdiction of the *seigneurs*, it is proper to remark generally, that the mere holding of a fief, a territory, or a lordship, did not confer (of itself) any legal jurisdiction (*justice*); but that, in order to be possessed of such right, it was necessary either to show a specific grant from the crown, or a prescriptive right, that is, immemorial possession or usage. And even if the *seigneur* could prove his right to the fee itself, or to the *cens* (which was generally treated as a recognition of the superiority of the *seigneur*), yet the axiom "*fief et justice n'ont rien de commun ensemble, mais sont droits divers, distincts et séparés*," (fiefs and the right of administering justice have nothing in common, but are distinct rights, &c.) prevailed; and the proving of either of the above rights did not therefore furnish evidence of the right of administering justice. A person who had a fee, or was entitled to a *cens* in a place, might nevertheless not be entitled to administer justice in such place; and, on the contrary, a person who was not possessed of either fee or *cens*, might yet have the power of appointing judges for the administering justice. The *seigneurs* greatly resembled the lords of manors in England (except that their jurisdiction was infinitely greater), in many particulars; and especially in the following:—that there was a [chief] manor-house (where the homage and fealty of the vassals were performed), and that quit-rents, or something similar (under the name of *cens*) were payable, as an acknowledgment of the lord's superiority,—that fines were payable on alienation by the tenant, &c.—that aids were required for making the *seigneur's* eldest son a knight,—for the marriage of his eldest daughter,—and for the ransom from captivity of the *seigneur* himself. Numerous other points of resemblance on this head will be found in the books enumerated above, under the heading "FEUDAL LAW." See *ante*, p. 264.

Those persons whose lands or territories were formed into a duchy-peerage or county-peerage (*duché-pairie* or *comté-pairie*) had the right of appointing their own judges, to administer justice within their territories. Those who held

appanages from the crown, and the *engagistes* (that is, those persons who held a portion of the domains of the crown, with a perpetual right of re-purchase existing in the crown), had also the like right. All these individuals exercised such rights as *seigneurs*.

In regard to the royal judges, it is to be observed, that they were judges commissioned to administer justice in the royal jurisdictions, and not in the jurisdictions of the *seigneurs*. They were (to begin with the lowest in rank) the *prévôts* (also called *châtelains*, *viguiers* or *vicomtes*), the bailiffs and seneschals, the presidial judges, and (according to Ferrière's *Dictionnaire*) the parliaments. Part of these judges might again be divided into two kinds, namely, those (the bailiffs and seneschals) who took cognizance, among other things, of the *cas royaux*; and the others (the *prévôts*, viscounts, castellans, and *viguiers*,) who took cognizance of ordinary matters, and of some of the *cas royaux*. These latter judges were called *premiers juges*, as having the first or lowest jurisdiction, that is, royal jurisdiction. The *juges-consuls* were not royal judges; they were elective, and required no royal letters conferring this office on them (called *provisions*), which was the real mark of distinction of the royal judges.

Judges, considered with regard to their functions, might be divided into judges ordinary, and judges extraordinary, or *d'attribution*; and, in respect of their judgments, into judges of first instance and judges of appeals.

The ordinary judges were those who, by the common law, took cognizance of all kinds of matters except those which were specially appropriated to other judges. Of this kind were the judges of the *seigneurs hauts-justices*, and the royal provosts, &c.

The mayors, aldermen (*échevins*), consuls, and *capitouls*, took cognizance of criminal and police cases. The bailiffs and seneschals also were ordinary judges; for they took cognisance of all matters and between all persons, by way of appeal from the royal *prévôtés*, and the seigneurial justices. The parliaments were ordinary judges of appeals from the different tribunals within their jurisdictions.

The extraordinary judges were those who took cognizance, not of all matters, but only of such as were expressly appropriated to their tribunals; as the *élus*, the officers of the salt-granaries, those of the admiralty courts, those of the *traites foraines* [these judges took cognizance of disputes concerning the duties payable on goods entering or going out of the kingdom]; the *trésoriers*, the judges of the waters and forests, the lieutenants-general of police, the *juges-consuls*, the judges of the mint; those of the constabulary, the courts of aids, the chambers of accounts; the intendants of provinces, &c.

There were other judges, who held a rank between the ordinary and the extraordinary judges, that is, they had jurisdiction in all kinds of matters, limited however to a certain sum. Of this description were the presidial judges, the judge-auditor of the *châtelet* of Paris, &c. Somewhat similar to these judges, as to jurisdiction, were the judges of privileged cases, the conservators of the universities, the judges of the requests, of the hotel and palace, and of the grand council, the ecclesiastical judges, &c.

The judges, considered in respect of their judgments, might be divided into judges of first instance, and judges of appeals,—the former judges were those before whom causes were brought to be decided in the first instance, as the

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prévôts and seigneurial jurisdictions. The latter judges were those who, on the plaint of persons stating themselves dissatisfied with the decisions of the judges of first instance, took cognizance of such causes, and pronounced as to whether the former judges had decided wrong or right. Of this description were the bailiffs, seneschals, the parliaments and other sovereign courts, and also the royal *prévôts* in some places. The judges of appeals were also, at times, judges of first instance in certain cases and between certain persons. Thus the parliaments were judges of first instance in matters (among others) concerning the dukes and peers; and the bailiffs took cognizance, in the first instance, of the *cas royaux*.

Judges might again be divided into judges *à la charge de l'appel*, and judges in the last resort, or sovereign judges.

The former of these judges were those whose decisions might be reviewed by way of appeal to a higher tribunal; as the seigneurial judges, the provosts, &c., from whose judgments appeals lay to the bailiffs and seneschals; and the bailiffs and seneschals themselves, from whose decisions appeals were brought before the parliaments or other sovereign courts.

The judges in the last resort were those whose decisions could not be reviewed by way of appeal, as the presidial judges, when they decided *au prémier chef de l'édit* (of 1551) on civil matters, or *présidialement* in criminal matters; the *prévôts* of the marshals; and the *élus* and others, when the question related to a certain sum.

There were also judges who decided in certain cases, *à la charge de l'appel*, and in others, in the last resort: these were the presidial judges in civil matters, the *élus*, &c.

The sovereign courts, as the parliaments, chambers of accounts, courts of aids, courts of the mint, and grand council, were also judges in the last resort; they were more commonly called sovereign judges; which could not be said of the presidial judges and provosts of the marshals, because all sovereign judges were judges in the last resort, but all judges in the last resort were not sovereign judges.

Causes might be evoked from one parliament to another, and from one court of aids to another, &c. See the article "*Évocation*" in Ferrière's *Dictionnaire*, and in Denisart's *Collection de Décisions*, for many particulars on this head.

There were also judges styled delegate. These were commissioned by the king and the superior courts to administer justice in particular cases, &c. The inferior judges could not delegate their jurisdiction. A judge delegate could not appoint another to act in his stead.

If a citizen of Paris was a defendant in a cause, he could not be sued out of Paris. By a special privilege, called the *privilège de scholarité*, the rectors, principals of colleges, regents, lecturers in universities, &c. might have their causes tried, in the first instance, before the *juges-conservateurs des privilèges des universités*. Those who had the right of *committimus* (see *supra*, p. 189,) might require the parties, who had claims against them, to bring their actions before the judges who had special cognizance of such matters.

Actions for moveables were to be brought before the judge of the place where the defendant lived, as in the case of personal actions; and those for immoveables, before the judge of the place where the immoveables (that were claimed)

lay: the demandant could also cite the defendant before the judge of the place where the defendant resided.

In causes merely personal, the demandant had to bring his action before the judge of the place where the defendant usually resided: this rule had however various exceptions. See Ferrière's *Dictionnaire*, article "*Compétence.*"

Noblemen (that is, gentlemen) could not be prosecuted criminally in the courts of the *prévôts*, as the *roturiers* or common people might be, but they were to be brought before the courts of the bailiffs or seneschals.

In respect of the precedence, in point of authority, among the various tribunals, the following general account is subjoined:—

The first in order of rank and jurisdiction (of the ordinary tribunals) were the various parliaments and the sovereign councils. The principal business of these courts consisted in the hearing of appeals from the various tribunals which lay within their jurisdiction; they had however original jurisdiction (and particularly the parliament of Paris) in certain cases. See *infra*, "PARLIAMENTS."

Next to the parliaments were the presidial courts. These courts were established to decide in the last resort in matters whereof the amount or value did not exceed the sums mentioned in the edicts concerning the same. See *ante*, p. 203.

The bailiwicks and seneschalsies were the next in precedence. They had original jurisdiction, and also jurisdiction by way of appeal.

Those royal bailiwicks, whose jurisdiction was very extensive, were divided into several particular courts or tribunals (one of which was however considered as the principal court), to each of which a particular lieutenant and king's attorney were attached. These courts had generally the same power and authority as the principal court, and appeals from their decisions were brought before the parliaments within whose jurisdiction they lay. The royal bailiffs and seneschals heard appeals from the decisions of the provosts (except in certain cases), and also from those of the seigneurial judges. See *ante*, pp. 203, 204.

The provosts (*prévôts*) followed next in rank to the bailiffs and seneschals; they had jurisdiction in the first instance, and also by way of appeal. See *ante*, p. 204.

The last in order was the jurisdiction of the *seigneurs*, which has been already treated on, *ante*, pp. 204—206. The jurisdiction of the various other tribunals will be found fully explained *ante*, pp. 206—235.

Appeals lay from the *basse-justice* to the *haute-justice*, and not to the *moyenne justice*; from the *moyenne justice* to the *haute-justice*, and from the *haute-justice* sometimes to the *prévôts*, sometimes to the bailiffs and seneschals, and at other times directly to the parliaments.

The *seigneurs hauts-justiciers* (and, as some authors say, the *seigneurs moyens-justiciers*) had their fiscal procurators; they had also *prévôts* and bailiffs; and they had the right of appointing notaries, to draw up deeds, &c. within their jurisdictions.

It should be mentioned, that the bailiffs and seneschals and the *seigneurs* administered justice themselves in ancient times; but by various edicts they were obliged to appoint judges to administer justice, instead of themselves; and the bailiffs and seneschals were also enjoined to reside in their several bailiwicks and seneschalsies.

2. THE ECCLESIASTICAL JURISDICTION.—This jurisdiction belonged to the archbishops, bishops, primate and pope. It was divided into the jurisdiction *au*

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for interne, and that *au for externe*. The former division of the jurisdiction extended to matters merely spiritual, to which all persons within the diocese (whether lay or ecclesiastical) were subject. It was exercised by the archbishops, bishops and their *penitenciers*, and by the vicars and confessors. The other division of the jurisdiction was subdivided into the *gracieuse* or voluntary, and the contentious. The voluntary jurisdiction related to matters merely spiritual; and for the exercise of this jurisdiction, the archbishops and bishops appointed grand-vicars; and for the exercise of the contentious jurisdiction (which extended to the causes of ecclesiastics—and of lay persons, in certain cases only), they appointed judges called officials. If the authority or jurisdiction of the grand-vicar extended over the whole of the diocese, he was styled vicar-general; but if it was limited to certain places, he was then called vicar-general *forain*. In general there was but one official for each diocese; but if the diocese was within the jurisdiction of various parliaments, the archbishop or bishop had to nominate an official *forain* for every part of his diocese which lay within the jurisdiction of any parliament, besides that which was held in the city where the bishop resided (*ville épiscopale*). The officials had deputies, named vicegerents, who administered justice in their absence. There was also attached to each officiality a promoter, who acted for the bishop, in the same capacity as that in which the *gens du roi* acted in the royal courts or tribunals, or as the *procurateurs fiscaux* in the seigneurial jurisdictions. The ecclesiastical judges took cognizance of matters merely personal between clergymen (*ecclésiastiques*), or when the defendant was a clergyman. They had no jurisdiction in causes real or mixed. The ecclesiastical judges also took cognizance of tithe cases (except as aftermentioned), marriages, heresy (as it was termed), and simony. With respect to tithes, the ecclesiastical judges could take cognizance only of what might be termed tithes due to the clergy, and not of the tithes that were due to lay owners (*dixmes inféodées*): this latter jurisdiction belonged to the royal judges. And, in respect of the tithes due to the clergy themselves, possessory actions had to be decided by the royal judges. With regard to marriage, the jurisdiction was limited to questions of promises of marriage, espousals, the validity or invalidity of marriages, cases where marriages were declared to be null for impotency, kinship, or marriages within the prohibited degrees, &c. The ecclesiastical tribunals had, however, no jurisdiction as to dower, &c. Although simony was within the ecclesiastical jurisdiction, yet the lay tribunals could also take cognizance of it, and even as between clergymen in certain cases.

Ecclesiastical discipline was also generally within the jurisdiction of the clergy; but the ecclesiastical judges could not inflict fines (except by enjoining alms-giving, &c.), nor issue out writs of execution on the property or persons of individuals. The decisions of the ecclesiastical judges could take effect only on their moveable property.

Appeals lay from the decisions of the bishop's official to the official of the archbishop; from those of the archbishop's official to the official of the primate (the Archbishop of Lyons); and from those of the primate to the Pope of Rome. Appeals to the pope were not prosecuted in Rome, but the pope delegated judges to decide such matters. These judges were called *juges délégués in partibus*, and were appointed by the pope to decide on matters that were brought by way of appeal, in the diocese of the kingdom where such matters lay. When appeals lay to the pope from the decisions of the clergy, he appointed

certain bishops, or abbots, &c. to decide on such cases; the persons appointed were generally three. So that there was no necessity to go to Rome to decide the matter; but commissioners *in partibus* (as they were termed) were appointed as before-mentioned. Appeals lay from the decisions of these judges delegate to the pope himself.

Appeals, called *comme d'abus*, were brought before the parliaments, see *ante*, p. 254.

Respecting the jurisdiction of the archdeacons, rural deans, and chapters of cathedral churches, see De Héricourt's *Lois Ecclésiastiques*, *ante*, p. 251.

The bishops were, by common right, the ordinary judges within their respective dioceses; and they had to decide on causes themselves, or to appoint judges in their stead: the general practice was, that the bishops did not sit as judges.

TRAITÉ DES DIVERSES JURISDICTIONS DE FRANCE, des Évocations, Règlemens de Justice, Privilèges de Jurisdictions, &c.; par Charles Chappureau, Avocat au Conseil Privé du Roi. 12mo. Lyons, 1662.

A Treatise on the various Jurisdictions in France, &c. by Chappureau.

DES OFFICES DE JUDICATURE DE FRANCE; par Charles Emanuel Borjon. 12mo. Paris, 1682.

A Treatise on the Offices of Judicature in France, by Borjon.

DE L'AUTORITÉ JUDICIAIRE EN FRANCE, par M. Henrion de Pansey. 2 vols. 8vo. Paris, 1827.

On the Judicial Authority in France, by Henrion de Pansey.

The first edition of this very important work was published in 1810; the present is the third edition, and contains several additional chapters. There is an introduction, and also an index.

The introduction is divided into ten chapters, which treat of the following subjects:—the administration of justice; the *Conseil d'État*, from the earliest period till the year 1302; the parliament of Paris from 1302 to 1363, and its participation in the exercise of the legislative power; details concerning the *Conseil d'État*, till the establishment of the *Grand Conseil* in 1497; the judicature of France, from the beginning of the third line of kings till the year 1814.

The work is divided into fifty chapters, as follows:—

Vol. I.—Chap. 1—6. Treat of government in general; 7—13. Of the judicial authority, the qualifications of the judges, their privileges, duties, immoveability, actions against them, &c.; 14—24. Of the different kinds of jurisdiction belonging to the judges; prosecutions by the attorney-general.

Vol. II.—Chap. 25. Treats of the penal or criminal jurisdiction; 26—29. Of the temporal and spiritual jurisdiction of the church, and of *appels comme d'abus*; 30. Of the jurisdiction of the court of peers; 31. Of the *rétractation*, cassation, and the annulling of judgments in the last resort; 32—37. Of appeals in civil and criminal cases:

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38—46. Of the administrative power, in relation to the judicial power, &c.; Of conflicts of jurisdiction; 47, 48. Of government officers; 49. Of the police; 50. Of the military commander, in relation to the judicial power.

A work on the judicial institutions of France was published by Brewer, the first volume of which was printed at Düsseldorf, in 8vo. 1835. The title of the work is *Geschichte der Französischen Gerichtsverfassung* (History of the Judicial Institutions of France). It extends from the earliest period to the present time.

It may be remarked, in conclusion, that in the years 1787 and 1788 (and particularly in May of the latter year), alterations were made in respect of the jurisdiction of several of the courts of law, and also in respect of the composition of many of the courts; but as these alterations were made so immediately preceding the Revolution, which abolished all the ancient courts and legislation, it was not thought advisable by the compiler to notice them minutely; but to let the account of the courts and their jurisdiction stand, as it is to be found in the authors who have treated on the subject previously to such alterations.—See the *Recueil Général des Anciennes Lois Françaises*, vol. xxix., for the alterations alluded to.

LEASES.

Leases were of various kinds, and were made of divers things, as of houses, lands, quarries, mines, cattle, &c. See *supra*, "CHEPTELS."

The principal of these were—1. The *bail à ferme*, farming lease. The chief of this kind of lease were, the *bail à cheptel* (see *ante*, p. 184), and the *bail à moisson* or *admodiation*.

By the term *bail à moisson* was meant a lease or contract, whereby the proprietor of lands or a farm let the same for a certain term, on condition that the tenant (in this case called the *métayer*, or *partiaire*, or *métayer partiaire*, or *admodiateur*) should furnish the seed and labour, &c. and the produce was to be divided between them in moieties. Such a farm was often called a *ferme à mi-fruits*, or *moitié-fruits*. This holding is usually known by the name of the *métayer* system, and is in use in modern France. The buildings, &c. on such a farm were called *métairie*.

2. The *emphytéose*, or *bail à emphytéose*, or *bail emphyteotique* (*emphyteusis*), was a lease for a long period. Ferrière, in his *Dictionnaire*, says that ninety-nine years was the longest period for which an *emphyteutic* lease could be granted, but adds, that they could be made for the life of the tenant and the lives of his children and grandchildren, and fifty years beyond [the life of the survivor]. Other authors give a much longer period of time during which this lease might continue. The rent reserved was small, and the tenant usually gave a sum of money by way of premium; that however was not an essential part of the contract. This kind of lease appears to have been of lands that had not been much (if at all) cultivated.

3. The *bail à vie*, a lease for life. This was distinct from the *emphyteutic* lease for life.

4. The *bail à rente*, or *bail d'héritage*, was a fee-farm.

5. The *bail à cens*. This was a kind of perpetual lease, reserving a rent called *cens*, which was an acknowledgment of the *directum dominium* of the

seigneur.—See *ante*, p. 182, and Pothier's works, Nos. 4, 5, 7 and 9, *ante*, pp. 162, 163.

It may be useful to add here, that the lessor or landlord of property let on lease was called indifferently by the names of *bailleur*, *locateur* or *propriétaire*; and the lessee or tenant was called by the different names of *preneur*, *fermier*, *locataire*, and *conducteur*.

LÉGITIME.

This was a portion of the inheritance of fathers and mothers, and other ancestors, which was due to children, &c. and of which they could not be deprived, unless they had given just cause to be disinherited. The *légitime* differed as to quantity in various places; and it took effect only in the *pays de droit écrit*, and in the *coutume* of Paris.—See *infra*, "SUCCESSIONS," and "WILLS."

DISCOURS SUR LA DÉTRACTION DE LA LÉGITIME ENTRE LES ENFANS. [Par Jean Marais.] 12mo. Paris, 1693.

A Treatise touching Contribution to the *Légitime*, by Marais, an advocate in the parliament of Paris.

TRAITÉ DE LA CONTRIBUTION À LA LÉGITIME, &c.; par M. Berger.—CONFIRMATION DES PREUVES de la Contribution à la Légitime, &c.; par le même Autheur. 2 vols. 12mo. Paris, 1702, 1703.

A Treatise on Contribution to the *Légitime*, &c. by Berger; together with a Confirmation of the Proofs, &c.

TRAITÉS DE LA LÉGITIME, DE LA REPRÉSENTATION, et des Secondes Nôces; par Guill[e] de la Champagne, Avocat. 12mo. Paris, 1720.

Treatises on the *Légitime*, Representation, and Second Marriages, &c. by De la Champagne, an advocate in the parliament of Paris.

LES INSTITUTIONS AU DROIT DE LÉGITIME, &c., par Pierre Roussilhe. 12mo. Avignon, 1770.

The Institutes of the Law of *Légitime*, by Roussilhe, an advocate.

See *supra*, "CHAPEAU DE ROSES," and *infra*, "QUINT," "SUCCESSIONS," and "WILLS."

LIBERTIES OF THE GALLICAN CHURCH.

These consist of certain rights peculiar to the church of France, which have been handed down from the earliest times. They are styled the "common ecclesiastical law of France." These rights were reduced or digested into eighty-three maxims or articles, by Pierre Pithou, in the reign of Henri IV.; and although they are thus in a manner the production of an individual, yet they have the authority of law. They were recognized, on several occasions, by the clergy of France.

Pithou grounds all the liberties of the Gallican church on the two following principal maxims:—

1. That the popes have no power, either generally or particularly, over temporal matters, in countries subject to the authority of the king of France; and

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if they do assume any such power, that the king's subjects (even the clergy) are not bound to obey.

2. That although the Pope is recognized as sovereign or head in spiritual matters, yet that any absolute and unlimited power in that respect is restrained and bounded by the canons and rules of the ancient councils of the church which are received in the kingdom.

Out of the first of these two maxims, Pithou has extracted 39 articles or maxims; and out of the second, 44. These 83 articles or maxims constitute what are usually known by the name of the "Liberties of the Gallican Church." It is to be observed, however, that the first three articles are merely introductory.

TRAITEZ DES DROITS ET LIBERTEZ DE L'EGLISE GALLICANE. 2 vols. fol. [Paris], 1639.

A Collection of Treatises, *Mémoires*, and Decisions of the Parliament of Paris, concerning the Liberties of the Gallican Church.

This is the first edition of the treatises with the proofs or illustrations; it was suppressed. The editors of this collection were Pierre and Jacques Dupuy.

Pierre Dupuy, a counsellor in the parliament of Paris, was born at Agen in 1582, and died about the middle of the seventeenth century.

Jacques Dupuy, brother of Pierre Dupuy, and prior of St. Sauveur, was born towards the close of the sixteenth century, and died in 1656. He assisted his brother in his various compositions.—See the article *Dupuy*, in the *Biographie Universelle*, and the article *Puy*, in Moréri's *Dictionnaire*, for an account of Pierre Dupuy's works.

The first volume of this collection contains the treatises, and the second the proofs, which are comprised in forty chapters.

The following is the order in which the treatises are arranged, with the names of their authors, and their dates:—

1. LES LIBERTEZ DE L'EGLISE GALLICANE, par M. Pierre Pithou, Advocat en la Cour de Parlement (1594).—These are Pithou's *Maximes*, referred to above.
2. REMONSTRANCES FAITES AU ROY LOUIS XI., par sa Cour de Parlement, sur les Libertez de l'Eglise Gallicane (1461).
3. MEMOIRES dressez pour le Roy tres-chrestien et l'Eglise Gallicane, par M. Maistre Jacques Capel, Conseiller et Advocat du Roy au Parlement de Paris (no date).

   Jacques Cappel (or Capel), king's advocate in the parliament of Paris, was born towards the end of the 15th century, and died about 1541.
4. MEMOIRES dressez par M. Maistre Noël Brulart, Procureur-general du Roy, touchant quelques pretentions du Pape sur les pays de Bretagne et Provence, contraires aux Libertez de l'Eglise Gallicane, et les moyens d'y remedier (1548).
5. MEMOIRE ET ADVIS de M. Jean du Tillet, Protenotaire et Secretaire du Roy, &c., sur les Libertez de l'Eglise Gallicane (1551).

   Jean du Tillet (or Dutillet), sieur de la Bussière, was a registrar in the parliament of Paris, and lived in the 16th century. A list of his valuable works will be found in the *Biographie Universelle*, article "*Dutillet.*"

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6. Arrest de la Cour, et le procez verbal d'execution d'iceluy, contre Jean Tanquerel, Bachelier en la Faculté de Theologie (1561).
7. Memoires dressez par M. Baptiste du Mesnil, Advocat du Roy au Parlement de Paris, &c., sur les Procedures faites à Rome contre la Royne de Navarre, &c. (1564).

See *ante*, pp. 95, 140.

8. Traicté des Libertez de l'Eglise Gallicane, fait par M. Claude Fauchet, Premier President en la Cour des Monnoyes (1591).

Claude Fauchet, an eminent historian and antiquarian, was born at Paris in 1539, and died in that city in 1601. A collection of his works (some of which are noticed in this Catalogue) was published at Paris, in 1 vol. 4to. 1610.

9. Discours des Raisons et Moyens pour lesquels Messieurs du Clergé assemblez à Chartres, ont declaré les Bulles monitoriales decernées par le Pape Gregoire XIV. contre les Ecclesiastiques et autres, &c. nulles et injustes, et contre les Droicts et Libertez de l'Église Gallicane. Par M. Charles Faye, Abbé de Saint Fussien, &c. (1591).
10. Traicté de la Grandeur, Droicts, Pre-eminences, et Prerogatives des Roys et du Royaume de France. Par Maistre Fr. Pithou, Advocat en la Cour de Parlement (no date).
11. Traicté des Droicts Ecclesiastiques, Franchises et Libertez de l'Eglise Gallicane. Par Maistre Antoine Hotman, Advocat en la Cour de Parlement (1594).

Antoine Hotman, advocate-general in the parliament of Paris, flourished in the sixteenth century. His works were collected with those of Jean Hotman, and published at Paris, in 8vo. 1616.

12. Extraict du Livre de M. Guy Coquille, de l'Institution du Droict François (1607).
13. Discours dudit par M. Guy Coquille, des Droicts Ecclesiastiques et Libertez de l'Eglise Gallicane, et les raisons et moyens d'abus contre les Bulles decernées par le Pape Gregoire XIV. contre la France (1591).
14. Arrest de la Cour, et le procez verbal de l'execution d'iceluy, contre Fr. Florentin Jacob, religieux de l'ordre de Saint Augustin, Bachelier en Theologie (1595).
15. De la Liberté ancienne et canonique de l'Eglise Gallicane, par M. Jacques Leschassier, Advocat en Parlement (1606).
16. Contre ceux qui disent que les Juges de ce Royaume doivent dire et compter quelles et combien sont les Libertez de l'Eglise Gallicane, &c. par le dit Sieur Leschassier (no date).
17. Traicté du Delict commun et Cas Privilegié, ou de la Puissance legitime des Juges Seculiers sur les Personnes Ecclesiastiques, par M. Benigne Milletot, Seigneur de Villy, &c. (1614).
18. Response du dit Milletot, sur la Question à luy proposée touchant la Denomination de l'Eglise Gallicane (no date).

Benigne Milletot, a counsellor in the parliament of Dijon, flourished in the sixteenth and seventeenth centuries.

19. La Police royale sur les Personnes et Choses Ecclesiastiques, par

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Jacques du Hamel, Procureur du Roy en la Cour Ecclesiastique de Roüen (1612).

A new edition (with augmentations) of this collection was published by Durand de Maillane, in 5 vols. 4to. Lyons, 1771.

COMMENTAIRE DE DUPUY SUR LE TRAITÉ DES LIBERTÉS DE L'ÉGLISE GALLICANE DE P. PITHOU. 2 vols. 4to. Paris, 1715.

The Commentary of P. Dupuy, on Pithou's Maxims touching the Liberties of the Gallican Church.

The original edition of this commentary was published in 1652. The present edition (by the Abbé Lenglet du Fresnoy) contains, besides three treatises by Dupuy on ecclesiastical subjects,—a preface on the study of the canon law in reference to the usages of France—a catalogue of the principal writers on canon law—a collection of pragmatic sanctions, *concordats*, *indults*, edicts and declarations concerning the ecclesiastical jurisdiction.

The Abbé Nicolas Lenglet du Fresnoy was born at Beauvais on the 5th October, 1674, and died on the 16th January, 1755. A list of his numerous publications will be found in the *Biographie Universelle*, article "*Lenglet Dufresnoy*."

To the Liberties of the Gallican Church should be added, the important declaration of the French clergy, in 1682, touching the ecclesiastical power. It consists of a preamble and four articles, and will be found in the nineteenth volume of the "*Recueil Général des Anciennes Lois Françaises*."—See *supra*, "ECCLESIASTICAL LAW."

MAJORAT.

This was a testamentary disposition of property in favour of a particular family, and the descendants of such family in strict entail, on condition that they should assume the name, arms, style, &c. of the testator.

The origin of *majorats* is to be sought in the *mejoras* (similar dispositions) of the Spanish law. See on this subject, *ante*, p. 111, *Majorat de Rye*, No. 76 of the *Causes Célèbres*; and also, in the Spanish portion of the Catalogue, the *Leyes de Toro*, and the treatises of Molina and Sempere on the subject.

MAJORITY.

TRAITÉ DES MAJORITÉS Coutumières et d'Ordonnances (par Biarnoy de Merville). 12mo. Paris, 1729.

A Treatise on Majority, by De Merville, an advocate.

TRAITÉ DE L'ÉMANCIPATION ET DE LA MAJORITÉ; par M * * *, Avocat. 12mo. Paris, 1729.

A Treatise on the Emancipation of Minors, and on Majority.

It is to be observed, that both in the ancient and modern law of France, the age when minority ceased was twenty-five. See *infra*, "MINORITY."

MARITIME LAW.

See the Marine Ordinance of 1681, *ante*, p. 21, and *supra*, "COURTS OF LAW, No. 5" (p. 224), and *infra*, "PRIZE LAW."

Marriage.

Traité du Mariage, et de la Puissance Paternelle, &c.; par Louis Astruc. 8vo. Toulouse, 1759.

A Treatise on Marriage and the Paternal Authority, by Astruc.

Traité des Contrats de Mariage, &c.; par G. D. T. 12mo. Paris, 1762.

A Treatise on Marriage Contracts, by M. Guerin de Tubermont.

Recueil des Edits, Déclarations, Ordonnances, et Règlemens des Roys Henry II., François II., Charles IX., Henry III., Henry IV., Louis XIII., Louis XIV., et Louis XV., concernant les Mariages; avec plusieurs arrêts notables intervenus sur ce sujet. 12mo. Paris, 1724.

A Collection of Edicts, &c. on Marriages, from the time of Henri II. to that of Louis XIV.

Code Matrimonial; par Le Ridant, Avocat. 2 vols. 4to. Paris, 1770.

A New Edition, by Camus, of Le Ridant's Code of Matrimony.

Clauses et Conventions les plus ordinaires des Contrats de Mariage; par M. Theriot. 12mo. Paris, 1768.

The Clauses, &c. which are usually inserted in Marriage Contracts or Settlements, by Theriot.

Examen de Deux Questions Importantes sur le Mariage.—Comment la Puissance civile peut-elle déclarer des mariages nuls sans entreprendre sur les droits de la Puissance ecclésiastique?—Quelle est en conséquence l'étendue du Pouvoir des Souverains sur les empêchemens dirimans le Mariage? [Par Le Ridant]. 4to. [No place.] 1753.

An Examination of Two Important Questions concerning Marriage; the first of which is,—How can the civil power declare marriages to be null, without encroaching on the ecclesiastical power? The other question is,—What is consequently the extent of the sovereign power, in regard to the annulling of marriages?

The work is divided into three books, which are subdivided into chapters, sections, and paragraphs. There is a preface and notes. The first book treats of the first question; the second of the other question; and the third contains answers to objections. At the end of the third book, there is a dissertation on the authority of the Council of Trent in France.

TREATISES. Marriage.

MÉMOIRE Théologique et Politique, au Sujet des MARIAGES CLANDESTINS DES PROTESTANS de France; par M. Baeer, Aumonier de l'Ambassadeur de Suède. 8vo. [Paris] 1755.

A Treatise on the Secret Marriages of the Protestants in France, by Baeer, Almoner to the Swedish Ambassador.

ESSAY DE DISSERTATION sur les Loix des SECONDES NÔCES, et notamment sur l'Article 279 de la Coutume de Paris. 12mo. Paris, 1737.

An Essay on the Law of Second and other Marriages, and particularly on the 279th Article of the *Coutume* of Paris.

TRAITÉ DES PEINES DES SECONDES NÔCES; par M. Pierre Dupin. 4to. Paris, 1743.

A Treatise on the Penalties, &c. arising out of Second Marriages, by Dupin. There is an edict on this subject which was promulgated by François II. (dated in 1560), and is commonly called the Edict of Second Marriages (*Édit des Secondes Nôces*). The term "second marriages" includes third and other marriages.

Pierre Dupin, an advocate in the parliament of Bordeaux, was born in 1681, and died in 1745.

TRAITÉ DES DISPENSES DE MARIAGE, de leur Validité ou Invalidité, et de l'État des Personnes; par Michel Du Perray. 12mo. Paris, 1719.

A Treatise on Marriage Dispensations, by Du Perray.

Michel Du Perray, a canon lawyer, and an advocate in the parliament of Paris, was born in 1640, and died at Paris in 1730. He composed numerous other works on ecclesiastical matters.

TRAITÉ DE LA DISSOLUTION DU MARIAGE, par l'Impuissance et Froideur de l'Homme ou de la Femme. 8vo. Paris, 1610.

A Treatise on Dissolution of Marriages, for Impotency, &c. This treatise is by Antoine Hotman, brother of François Hotman, and advocate-general in the parliament of Paris in the time of the League.

TRAITÉ DE LA DISSOLUTION DU MARIAGE pour cause d'Impuissance, &c.; par M^e^. le Président Bouhier. 8vo. Luxemburg, 1735.

A Treatise on the same subject as the preceding article, by Bouhier.

Jean Bouhier, a *president à mortier* in the parliament of Dijon, was born in that city in 1675, and died in 1746. A list of his numerous works, both legal and miscellaneous, will be found in the *Biographie Universelle*, article "*Bouhier*."

TRAITÉ DU DIVORCE POUR L'ADULTÈRE, savoir: s'il est permis à l'homme ou à la femme en ce cas de se remarier. 12mo. Paris, 1655.

A Treatise on Divorce for Adultery,—and whether the husband or wife in such a case is allowed to marry again.

The first edition of this work was published in 1586.

LES INCONVÉNIENCES DU CÉLIBAT DES PRÊTRES, prouvés par des Recherches Historiques. 8vo. Geneva (Lyons), 1781.

A Treatise on the Celibacy of Priests, by the Abbé Gaudin. He was born in the 18th century, and died in 1810. This work was reprinted under the title of "*Recherches sur le Célibat Ecclésiastique.*"

CAPITULAIRE au quel est traicté qu'un homme nay sans testicules apparents et qui a néantmoins toutes les autres marques de la virilité, est capable des œuvres du Mariage; par Sebastian Roulliard. 8vo. Paris, 1603.

Roulliard, an advocate in the parliament of Paris, was born at Melun about 1560, and died in 1639. He composed several other works.

Bayle, in his Dictionary, article "*Quellenec,*" states that it was for the Baron d'Argenton, who had married Magdelaine de la Chastre, that this *Capitulaire* was composed.

A Treatise on this subject, in Latin, and printed in the same year as the preceding article, will be found in Peleus's works, *ante*, p. 141.

PLAIDOYER de M. Freydier, Avocat à Nismes, contre l'Introduction des Cadenas, ou Ceintures de Chasteté. 8vo. Montpellier, 1758.

See also Pothier's Treatise on Marriage, No. 15, *ante*, p. 165.

MILITARY LAW.

Previously to the revolution in 1789, France was divided, for military purposes, into seventeen great or general governments of provinces, besides particular governments comprised therein. The number of the provinces or governments of the kingdom was thirty-nine (reckoning Corsica and Avignon, or the comté Venaissin, as two provinces): the provinces were subdivided into what were termed *pays*, and some authors estimate the number of the provinces and *pays* to be 293. The following are the names of the great governments, with the names of the provinces termed particular governments:—1. Isle de France; 2. Burgundy (including the county of Burgundy); 3. Normandy; 4. Guienne (including Saintonge, L'Angoumois, Le Limosin, Le Périgord, and Le Querci); 5. Brittany; 6. Champagne; 7. Languedoc (including the county of Foix); 8. Picardy and Artois; 9. Dauphiny; 10. Provence (including Corsica and Avignon); 11. Le Lyonnois (including Auvergne, La Marche, and Le Bourbonnois); 12. L'Orléannois (including Poitou, Anjou, Tourraine, Le Pays d'Aunis, Maine, Berri, and Le Nivernois); 13. Navarre and Béarn; 14. Alsace; 15. Lorraine; 16. Roussillon; 17. French Flanders and Hainault.

TREATISES.

Each of the great governments had (in general) a governor-general and two or more lieutenant-generals, &c.; and the provinces, included within the respective general governments, had lieutenant-generals, king's lieutenants, &c. See Moréri's *Grand Dictionnaire* (ed. 10 vols. folio, Paris, 1759), article "*France.*" The writer of the article "*France*" in the above-mentioned Dictionary observes, that the governors and lieutenants for the king in the provinces were what the dukes formerly were; and that the governors of cities were what the counts formerly were.

HISTOIRE DE LA MILICE FRANÇOISE, et des changemens qui s'y sont faits depuis l'établissement de la Monarchie dans les Gaules, jusqu'à la fin du règne de Louis le Grand; par le P. G. Daniel, &c. 2 vols. 4to. Paris, 1721.

A History of the French Militia, &c., and of the Changes which it experienced, from the beginning of the Monarchy till the end of Louis XIV.'s reign, by Daniel.

Gabriel Daniel, a jesuit, was born at Rouen, in 1649, and died in 1728. He wrote a History of France, and numerous other works, a list of which will be found in Moréri's *Dictionnaire*, article "*Daniel.*"

CODE MILITAIRE; par Briquet. 8 vols. 12mo. Paris, 1761.

The Military Code, by Briquet.—See the second volume of the *Profession d'Avocat*, p. 220, and the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, 2nd vol. (*Jurisprudence.*)

LES PRIVILÈGES DES SUISSES, &c.; par M. V[ogel], G[rand] J[uge] D[es] G[ardes] S[uisses]. 4to. Yverdon, 1770.

A Collection of the Privileges of the Swiss, that is, chiefly with regard to the Swiss Soldiers in the pay of France, by Vogel. This collection includes privileges granted to the Imperial and Hanse Towns, and to the inhabitants of Geneva resident in France. The earliest document in this collection is dated in 1453, and the latest in 1728.

MINES.

ÉDITS, Ordonnances, Arrêts et Règlemens sur le fait des MINES ET MINIÈRES de France. 12mo. Paris, 1764.

A Collection of Edicts, &c. on the Mines of France.

MINISTÈRE PUBLIC.

This may be termed the office of public prosecutor. In the sovereign courts, it devolved on the advocates-general and attornies-general, or their substitutes; in the royal courts, it devolved on the king's advocates and attornies or their substitutes; and in the jurisdiction of the *seigneurs* or lords, on their fiscal advocates and procurators.

MINORITY.

TRAITÉ DES MINORITEZ, des Tutelles et Curatelles, et des Droits des enfans mineurs et majeurs; par M * * *, Avocat. 12mo. Paris, 1714.

A Treatise on Minority, Guardianship, &c.

TRAITÉ DES MINORITEZ, des Tutelles, &c.: [par Me Meslé]. 4to. Paris, 1752.

A Treatise on Minority, Guardianship, &c. by Meslé, an advocate.

It may be remarked, that minority meant being under the age of twenty-five years: in some *coutumes*, it ceased at an earlier age.

MISSI DOMINICI.

These were commissioners sent by the kings of the first and second line into the provinces, to make inquiries into the conduct of the dukes and counts and other judges, and to adjudicate on cases of appeal. Under the third line of kings, the powers of the *missi dominici* were transferred to the bailiffs and seneschals, who decided in the last resort, until that power was reserved to the parliaments, in the time of Philippe-le-Bel.

Dupin, in the second volume of the *Profession d'Avocat*, p. 496, mentions a treatise on this subject, by M. de Roye, which is inserted in the edition of Baluze's *Capitularia*, printed at Venice (Zatta) in 1771.

MORTGAGES.

NOUVEAU TRAITÉ DES HYPOTHÈQUES, &c. par Olivier Estienne. 4to. Rouen, 1705.

A New Treatise on Mortgages, by Estienne.

TRAITÉ DES HYPOTHÈQUES, par J. Ant. Soulatges. 12mo. Toulouse, 1761.

A Treatise on Mortgages, by Soulatges, an advocate.

COMMENTAIRE SUR L'ÉDIT PORTANT CRÉATION DES CONSERVATEURS DES HYPOTHÈQUES, sur les Immeubles Réels, &c. par Grenier. 12mo. Riom, 1782.

A Commentary on the Edict of 1771, creating the *Conservateurs des Hypothèques*, &c. by Grenier.

See the works of Basnage, *ante*, p. 153, and Pothier, No. 31, *ante*, p. 169; and also among the treatises, in the modern part of this division of the Catalogue, the heading "MORTGAGES."

MORTMAIN (*Main-morte*).

See *supra*, "AMORTISSEMENT," and also the article *Main-morte*, in Merlin's *Répertoire*, and in Ferrière's *Dictionnaire*.

MUNICIPAL LAW.

The origin of the ancient municipal laws of France must be deduced from the laws affecting the *municipia* among the Romans. With them, towns were called *municipia*, which by capitulation had surrendered, or voluntarily joined themselves to the Roman commonwealth, so far as sovereignty was concerned, but had preserved their liberties, and their own magistrates and laws. The magistrates of these *municipia* were termed municipal magistrates, and the rights belonging to such towns were called municipal rights or laws. Towns which derived their original from the *coloniæ* of the Romans had even greater privileges.

TREATISES.

Municipal Law.

The municipal officers in France, who were distinguished from the royal officers and those of the *seigneurs*, were elected for the purpose of defending the rights and interests of a town or city, as mayors and *échevins* or aldermen, *capitouls* and jurats, consuls, and other magistrates.

An important *règlement* was made in June, 1787 (*Anciennes Lois Françaises*, vol. 29), establishing provincial and municipal assemblies throughout the kingdom.

CODE MUNICIPAL, ou Recueil des principaux Édits qui intéressent les Officiers Municipaux et de Police. 2 vols. 12mo. Grenoble, 1760.

The Municipal Code, being an analysis of the enactments, &c. on the subject.

RECUEIL DE RÈGLEMENS et Recherches concernant la Municipalité [Par Boileau]. 5 vols. 12mo. Paris, 1785.

A Collection of Regulations touching Municipalities, by Boileau.

Boileau, an advocate in the parliament of Paris, was born at Dunkirk, in 1741, and died at Paris in 1817.

HISTOIRE CRITIQUE DU POUVOIR MUNICIPAL, de la Condition des Cités, des Villes et de Bourgs, et de l'Administration comparée des Communes en France, &c. Par M. C. Leber, &c. 8vo. Paris, 1828.

A Critical History of the Municipal Power in France, by Leber. There is but a small portion of the work which relates to the modern condition, &c. of the *communes*, &c.

The work is divided into two parts, which are subdivided into chapters. There is an introduction, an index and notes. The subjects of the chapters, (which are divided into centuries, &c.) are as follows:—

Part I.—Chap. 1. Of the *civitates* (*cités*) of Gaul, and their municipal administration under the Romans. 2. Of the condition of the *cités* and towns of France, under the Merovingians and the early kings of the Carlovingian dynasty. 3. Of the *cités* and towns under the feudal government. 4. Of the *communes* and *bourgeoisies*. 5. Of the enfranchisement of the *campagnes*; of the condition of the country-people or peasants (*paysans*); of the rights of the rural communities (*communautés*). 6. Of the influence of the grand monarchical institutions on the municipal power; fall of the *régime* of the charters. 7. Change in the customary laws; fall of the charters; limitation of the municipal power; conservation of the rights (*droits réels*) of the cities and towns, &c.

Part II. Condition of the ancient administration of the *communes*, compared with their present government.—Chap. 1. Of the establishment of the [present] *communes*. 2. Form of the administration of the *communes*; the appointment, composition, character and functions of the municipal magistrates. 3. Administration of the real property belonging to *communes*. 4. Administration of the revenues, &c. of the *communes*.—In each of these four chapters the ancient and present *régime* are contrasted and compared with each other.

TREATISES.

Municipal Law.

HISTOIRE DU DROIT MUNICIPAL en France, sous la Domination Romaine et sous les trois Dynasties. Par M. Raynouard, de l'Institut Royal de France, &c. 2 vols. 8vo. Paris, 1829.

A History of the Municipal Law of France, under the Roman Dominion, and under the three Dynasties of the Kings of France; by Raynouard, of the Royal Institute of France.

This work is divided into four books, which are subdivided into chapters. There is an introduction, notes, and an index of books and chapters.

Book I. The chief subjects treated in the chapters of this book are:—the necessity of being acquainted with the political condition of the Gauls under the Roman dominion; the origin of the *coloniæ* and *municipia*; the division of Gaul into provinces; the *Curiæ*, the *Curiales* or *Decuriones*; the municipal magistrates; the *Duumviri*, the *decaproti*, &c.; the *defensores civitatum*; the senate; the prefects and counts; the registering (*insinuation*) of donations, alienations of property, wills, &c.; the form of the election of popes, &c.; the representative assemblies of the provinces of Gaul; the municipal administration according to the Roman institutions.

Book II. The chief subjects treated on in the chapters of this book are:—the division of the lands between the Burgundians, the Wisigoths and the ancient inhabitants; a question, whether the Franks took a portion of the conquered lands, like the Burgundians and Wisigoths; the laws and institutions of the Romans maintained.

Book III. The chief subjects treated on in the chapters of this book are:—that each of the nations which inhabited Gaul was governed by its own laws; that the magistrates enjoyed both municipal and judicial functions; the *bons hommes* and the *prud'hommes*; proofs of the existence of municipal corporations and officers.

Book IV. The chief subjects of the chapters of this book are:—proofs of the existence of municipal administrations at the time of the establishment of the *communes*; the feudal system in France; chivalry in France; charters of *communes*; facts relating to the existence of *communes* before the time of Louis-le-Gros, and before the grants of charters; the legislation of the kings of the third dynasty on municipalities.

NANTISSEMENT.

This was a pledge or security given by a debtor to a creditor. The word *nantissement* also meant a mortgage of landed property, in some of the provinces, which were called *pays de nantissement*. There were four kinds of *nantissement*. The first was when the vendor or debtor divested himself of the inheritance into the hands of the lord, and livery thereof was given to the purchaser or creditor by the lord, by the delivery of a stick (*bâton*). The third form or kind consisted in the creditors being put in actual possession of the property by a judge's order (*commission*). The second kind greatly resembled the third kind, and requires no particular description. The fourth kind, which was in use in Artois, Picardy and the Vermandois, consisted in a simple act of *nantissement*. Registries of *nantissemens* were kept by the *seigneurs*, &c.

TREATISES.

By an edict dated in 1771, explained by a declaration dated in 1772, *nantissemens* were abolished, so far as mortgages were concerned, and acts passed before notaries [that is, deeds, &c.), and judgments, were to have the same effect as the *nantissemens*.—See Ferrière's *Dictionnaire de Droit, &c.* article "*Nantissement*;" Pothier's works, No. 32, *ante*, p. 170; and also, *supra*, "INSINUATION."

NOBILITY.

There were in France three kinds of nobles or gentlemen, namely, first—those who were descended from ancient families, and were called *nobles de race* or *nobles d'extraction*; whereas those who derived their nobility from their fathers or grandfathers, or other near ancestors, were merely called *nobles de naissance*. The second kind were those who became nobles by reason of holding certain offices, including military offices of a certain rank, as field-marshals, marshals of France, &c. The third kind were those who were ennobled by the king's letters-patent. These letters had to be verified and registered in the chamber of accounts, the court of aids, and in the parliament of Paris. The physicians and advocates in the Lyonnois, the Forez, and the Boujolois, and in some other parts of the kingdom, were styled nobles. See the "*Causes Célèbres*," No. 91, *ante*, p. 111. This title did not however descend to their children.

It would seem that the two latter kinds of nobility were hereditary, as well as the first. In creations of nobility, the practice was to mention the descendants in the letters-patent. With regard to the offices conferring nobility, as the office of a secretary of state, a counsellor in the parliament of Paris, &c., it was necessary, in order that the rank of nobility might pass to his descendants, that such nobleman should fill the office at the time of his death, or should have obtained *lettres de vétérance* from the chancellor. The military nobles had to obtain from the great seal letters of *approbation de service*, which did not require to be registered. The lawyers who were ennobled were called *noblesse de robe*; the military, *noblesse d'épée*.

It is stated by Laferrière, in his *Histoire du Droit Français*, that upwards of 4000 offices conferred the title and rank of nobility. Among these may be enumerated the following persons holding such offices,—namely, the great officers of the crown, the secretaries and counsellors of state, the presidents, counsellors, attornies-general, advocates-general, &c. of the parliaments, the *prévôt des marchands*, the mayors, *échevins*, *capitouls*, jurats, &c. in cities where such offices conferred nobility, as Paris, Lyons, Toulouse. Some of these offices conferred nobility *au prémier degré* (that is, transmissible to children), and some *au second degré* (that is, transmissible to grandchildren). If their title to be ranked as noblemen was disputed, all the nobles (except the military) were obliged to produce their evidence to verify their assumption of the rank, &c.

With regard to the privileges enjoyed by the nobles, and numerous curious particulars concerning the nobles generally, see the article "*Noblesse*" in the 6th volume (*Jurisprudence*) of the *Encyclopédie Méthodique*.

TRAITÉ DE LA NOBLESSE et de ses diverses espèces; par Gilles-André de la Roque. 4to. Rouen, 1734.

A Treatise on Nobility and its various kinds, by De la Roque, an advocate in the parliament of Paris: he was born in 1597, and died in 1687. This book is of great authority on the subject.

HISTOIRE GÉNÉALOGIQUE ET CHRONOLOGIQUE de la Maison Royale de France, des Pairs, Grand Officiers de la Couronne et de la Maison du Roy, et des Anciens Barons du Royaume; avec les Qualitez, l'Origine, le Progrès et les Armes de leurs Familles, ensemble les Statuts et le Catalogue des Chévaliers, Commandeurs, et Officiers de l'Ordre du Saint-Esprit; par Le Père Anselme, &c., continuée par M. Du Fourny, &c. 9 vols. fol. Paris, 1726—33.

Anselme's Genealogical History of the Royal Family of France, the Great Officers of the Crown, &c. This is the 3rd edition of the work.

Pierre de Giubours, commonly called *Père* Anselme de Sainte-Marie, an *Augustin déchaussé*, was born in 1625, and died at Paris, in 1694. He composed three other works on genealogy, &c.

DICTIONNAIRE DE LA NOBLESSE, contenant les Généalogies, l'Histoire et la Chronologie des Familles Nobles de France; l'Explication de leurs Armes, et l'État des grandes Terres du Royaume aujourd'hui possédées à Titre de Principautés, Duchés, Marquisats, Comtés, Vicomtés, Baronnies, &c., soit par Création, par Héritages, Alliances, Donations, Substitutions, Mutations, Achats, ou autrement, &c. Par M. De la Chenaye-Desbois. 15 vols. 4to. Paris, 1770—1786.

A Dictionary of the Nobility of France, containing, in alphabetical order, the Genealogy, History, and Chronology of the Noble Families of France, the Principalities, Duchies, Marquisates, &c.; to which is added, a Genealogical and Historical Table of the Sovereign Houses of Europe; by Chenaye-Desbois. There is an *avant-propos*, and each volume has a list of the names of the families contained therein. See *infra*, "OFFICES" and "PEERAGE;" and also the modern part of this division of the Catalogue, the headings "NOBILITY" and "PEERAGE," among the Treatises.

NOTABLES.

Assemblies of the chief persons of the state, consisting of the nobility, clergy, and commoners, were occasionally convoked by the kings, for some purpose affecting the good of the nation at large: they were styled "*Assemblées des Notables.*" The earliest assembly of this kind which the compiler has found noticed, is that which was held on the 20th October, 1363 (vol. 5 of the *Anciennes Lois Françaises*); and the latest was that which was held at Paris in 1788. The last assembly of the notables (previously to that in 1787) was held (according to Thibaudeau's *Histoire des États Généraux*, &c., noticed in this Catalogue) in 1626-7. This was held at Paris, and appears to have consisted only of the nobility, clergy, and the officers of the parliaments and other sovereign courts.

Particulars concerning this assembly will be found in the second volume of Thibaudeau's work, pp. 434—58. Assemblies of the notables were generally composed of persons selected by the king from the three orders of the nation, like the States General; they appear, in a manner, to have represented them.

TREATISES.

NOTARIES.

Notaries were of three kinds,—namely, those appointed by the king for the royal jurisdictions, and called royal notaries; those appointed by the *seigneurs*, and called seigneurial notaries; and those appointed by the archbishops and bishops, and called apostolic notaries. As to the extent of the powers, &c. of these several kinds of notaries, see, in De Ferrière's *Dictionnaire de Droit*, the articles "*Notaires Royaux*," "*Notaires des Seigneurs*," and "*Notaires Apostoliques*."

ARS NOTORIATUS PERUTILIS, &c.; exaratus per J. Menagium, Parhisianum bibliopolam. 8vo. Paris, 1515.

The Notary's Art, by Ménage, a Paris bookseller.

LA PROTHOCOLE; l'Art et Stille des Tabellions, Notaires, &c. 8vo. Paris, 1550.

The Notary's Style, &c.

CHARTES, LETTRES, TITRES ET ARRÊTS DE L'ANTIQUITÉ, PRIVILÈGES, &c. des Notaires au Châtelet de Paris; par Guillaume Levesque. 4to. Paris, 1663.

A Collection of Charters and other Documents concerning the Notaries in the *Châtelet* of Paris, by Levesque.

LA SCIENCE PARFAITE DES NOTAIRES, ou le Moyen de Faire un Parfait Notaire; contenant les Ordonnances, Arrêts et Règlemens touchant la Fonction des Notaires; avec les Stiles, Protocoles, Formules pour dresser toutes Sortes d'Actes, &c.; par Cl. Jos. De Ferrière. 2 vols. 4to. Paris, 1728.

The Perfect Science of Notaries, by De Ferrière.

Several editions of this work on Notaries were published previously to the Revolution; and a new edition was published by Massé, in 2 vols. 4to., Paris, 1807, the title of the work being somewhat altered, and the forms, &c. accommodated to the modern legislation of France.

TRAITÉ DES DROITS, PRIVILÈGES ET FONCTIONS DES NOTAIRES; par S. Fr. Langloix. 4to. Paris, 1738.

A Treatise on the Rights, Privileges, &c. of Notaries, by Langloix, a Notary.

The author lived in the eighteenth century: he compiled a Commentary on the Customary Laws of Paris, entitled *Principes Généraux de la Coutume de Paris*, printed at Paris, in 12mo. 1742.

OBLIGATIONS, AGREEMENTS, &c.

INSTRUCTION FACILE SUR LES CONVENTIONS, &c. 12mo. Paris, 1766.

See also Pothier's Works, No. 1, *ante*, p. 161.

Offices.

Public employments or offices in France were offices of justice, offices of the king's household (*maison du roi*), offices of finance, and military and police offices. In early times, all offices in France were held by commission and at the prince's pleasure.

Judicial offices appear to have been saleable at an early period of the monarchy, since Louis IX. forbade the sale of them; but several of his successors let them out to farm.

Offices or *charges de l'état* were made permanent (*perpetuels*), that is, irrevocable, by Louis XI. (by ordinance of 1467), except in cases of forfeiture. This enactment had the effect of making them saleable. In the reign of Louis XII. appointments to offices of finance were made for a pecuniary consideration. His successor, François I. opened a *bureau* for the open sale of offices. This *bureau* was called the *parties casuelles*, and "served," as Loyseau says, in his Book of Offices (*ante*, p. 143), "as a shop for the sale of this new merchandize." Loyseau, who lived in the early part of the seventeenth century, states that all offices were then saleable. Louis XIV. created an immense number of offices, for the purpose of raising money thereby.

Offices were hereditary, or for life, &c., and were saleable or not saleable. The offices of the king's household and the military offices were not saleable nor hereditary, nor liable to a *finance* (a tax payable on such occasions), but were subject to a perpetual right of repurchase or redemption.

The offices that were saleable were either *domainaux* or *casuels*. The *offices domainaux* were dismemberments of the royal domain, and the *offices casuels* were only for life. The holders of these offices (including the holders of judicial or revenue offices) paid a *finance* (tax) to the *parties casuelles*. It may be remarked, that the term *parties casuelles* meant both the tax itself and the office where it was payable.

The holders of hereditary, judicial, or revenue offices, paid yearly, in order to preserve the property for their heirs, &c., a tax called the *Paulette*: this was paid to the *parties casuelles*. This tax owed its name to Charles Paulette, secretary of the chamber to Henri IV., who suggested it, and was the first farmer of it. —See *supra*, "Nobility."

I. Offices generally.

Premier et Second Livre des Dignitez, Magistrats, et Offices de France. Auxquels est de nouveau adjousté le Tiers Livre de ceste matière outre la Reveue et Augmentation d'iceux. 12mo. Paris, 1564.

A Treatise on the Great Offices of State and the Judicial and Financial Offices, in three books.

The contents of the books are as follows:

Book I. treats of the king, the dauphin, the peers, the four marshals, the admiral, the military orders, the lieutenant-generals, the grand masters of the artillery and cross-bow men, the heralds, the officers of the king's household, among whom the "*roy des ribaux*" is numbered.

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Book II. treats of the three estates of the kingdom, the privy council, the chancellor, the masters of the requests, the parliament of Paris, the attorney-general and the two king's advocates, the grand council, the bailiffs and seneschals, the keeper of the records.

Book III. treats of the domains of the crown, &c., the four treasurers, the *chambre du trésor*, aids and *tailles*, &c., the officers for collecting the same, and the chamber of accounts.

DE DUCIBUS ET COMITIBUS PROVINCIALIBUS GALLIÆ Libri Tres. [From the 5th volume of De Hauteserre's Works, edited by Marotta.—See *ante*, p. 265.]

A Treatise on the Provincial Dukes and Counts, &c. among the Gauls, and the Franks or French. The work is divided into three books, which are subdivided into chapters. There is a dedication, marginal notes, and an index of the chapters, &c.

The chapters of the first book treat of the dukes and counts under the Romans, Goths, Franks, and French; that dukes and counts were at first temporary, and afterwards hereditary; of the nomination of bishops and abbots; of the rights of patrons of bishoprics; of the foundation of monasteries; of ecclesiastical mortmains.

The chapters of the second book treat of the rights of war; of the enactment of laws; of the customary laws of France; of the right of creating magistrates, coining money, pardoning crimes, and naturalizing foreigners; of the *droit d'aubaine;* of the right of ennobling commoners; of knights, esquires, and bachelors; of the right of legitimation; of confiscation, escheats, treasure trove, shipwreck, fairs, reprisals, and appeals.

The chapters of the third book treat of marriage; of the coronets and crowns of the *patricii*, dukes, and counts; of arms, banners, seals; of princes, dukes, counts, *messires*, consuls, counts palatine, and barons; of bishops and counts; of the *jus gladii;* of the various kinds of great officers (of the household, &c.); of the *pares curiæ* (the jurymen); of the dresses of the dukes, counts, &c.; of badges, ensigns, &c.; of warrens, chases, &c; of the Salic law; of marquises and viscounts; of dukes and counts generally; of the creation of seneschals and bailiffs.

This is a very important and valuable work.

ORIGINES DES DIGNITEZ ET MAGISTRATS DE FRANCE. Recueillies par Claude Fauchet. [From the collected edition of his Works. 4to. Paris, 1610.]

A Treatise on the Dignities or Offices and Magistrates of France, in two books, by Fauchet.

The present work is divided into two books, which are subdivided into chapters. The chapters of the first book treat of the king and the royal family, their domestic officers, palaces, &c.; of the mayors of the palace, seneschals, and other officers; the king of the *ribaux*. See *ante*, "COURTS OF LAW," heading *Prévôté de France*, for an account of this personage. Fauchet quotes a passage from the *Roman de la Rose* concerning this officer.

The chapters of the second book treat of the *patrices*, dukes, marquises, counts, barons, castellans, vassals and fiefs, the constable and marshals, the admiral, and the *mareschaux et fouriers de logis*.

Fauchet's other works comprised in this collection, are—1. *Les Antiquitez Gauloises et Françoises;* Antiquities of Gaul and France, in 12 books. 2. *Origine des Chevaliers, Armoiries, et Heraux*, &c.; Origin of Knights, Armorial Bearings and Heralds, of the Militia and Arms. 3. *Traicté des Libertez de l'Eglise Gallicane;* A Treatise on the Liberties of the Gallican Church. 4. Three small tracts on the coronation of Henri III.; on the Arms, &c. of Knights, and on the City of Paris. 4. *Recueil de l'Origine de la Langue et Poesie Françoise, Ryme et Romans;* A Treatise on the Origin of the French Language and Poetry, with an enumeration of the works and names of 127 French poets living before the year 1300.

This is very curious and valuable.

TRAITÉ DES DROITS, Fonctions, Franchises, Exemptions, Prérogatives et Privilèges annexés en France à chaque Dignité, à chaque Office, et à chaque État, soit Civil, soit Militaire, soit Ecclésiastique; par MM. Guyot et Merlin. 4 vols. 4to. Paris, 1786—88.

A Treatise, by Guyot and Merlin, on the Rights, Functions, Franchises, Exemptions, Prerogatives, and Privileges which in France belonged to Offices, and to every Condition of Persons, whether Citizens, Clergymen, or Soldiers. An ample list of works on Offices will be found in the third volume of Lelong's *Bibliothèque*, pp. 127—202.

II. JUDICIAL OFFICES.

TROIS LIVRES DES OFFICES DE FRANCE; par M^e^. Girard, Advocat en la Cour. Avec les Additions, &c., par M^e^. Jacques Joly, Advocat en la Cour. Folio. Paris, 1644.

This is a collection of ordinances, edicts, &c. concerning the parliaments, the chanceries, and the presidial courts, bailiwicks, seneschalsies, provostships, and other jurisdictions, collected by Girard, and with additions by Joly. It is a very important work, and is stated in the title-page to be divided into three books, but two only appear to have been published. The first book treats of the different parliaments as they were then in existence, and their respective officers; the second, of the chancellors, the keepers of the seals, the officers of the chancery and the king's council; of the bailiffs, seneschals, provosts, presidial judges and other officers of justice. The additions treat of the origin, &c. of the above dignities and offices, their duties, privileges, &c. The two books are divided into titles, and the additions contain the proof or illustrations. There is a dedication, a short notice to the reader, and two indices.

DES OFFICES DE Judicature en général, où il est traité de l'Âge, des Provisions, des Informations, de l'Examen, des Réceptions, des Gages, du Droit Annuel, des Rangs et Séances,

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de l'Incompatibilité, Prises à Parties, Récusations, Résignations et Destitutions de tous les Officiers de Judicature du Royaume; par Borjon. 12mo. Paris, 1683.

Of the Offices of Judicature generally, by Borjon.

Charles-Emmanuel Borjon, an advocate in the parliament of Paris, was born at Pont-de-Vaux in 1633, and died at Paris on the 4th of May, 1691. He wrote several other works on law, among which is the treatise that forms the next article.

A list of these several works will be found in the *Biographie Universelle* (Supplement), article "*Borjon*."

The present work treats of the age, examination, appointment, salary, rank, &c. of every judicial officer in the kingdom.

Des Offices de Judicature en particulier, où il est traité des Parlements, des Requestes du Palais, des Sièges Présidiaux, des Bailiffs et Senechaux, des Lieutenans-Généraux, Civils et Criminels, &c.; par M. Borjon. 12mo. Paris, 1683.

Of the Offices of Judicature in particular,—namely, the Parliaments, Requests of the Palais, Presidial and other Tribunals, by Borjon.

III. Revenue or Finance Offices.

Dictionnaire Universel, Chronologique, et Historique, de Justice, Police, et Finances; par François-Jacques Chasles. 3 vols. fol. Paris, 1725.

A Digest of Justice, Police and Finances, by Chasles, an advocate in the parliament of Paris.

Histoire Financière de la France, depuis l'Origine de la Monarchie jusqu'à la fin de 1786, &c.; par A. Bailly. 2 vols. 8vo. Paris, 1830.

A History of the Finances of France, from the beginning of the Monarchy till the year 1786, by Bailly.

De l'Administration des Finances; par Neckar. 3 vols. 8vo. Paris, 1784.

On the Administration of the Finances of France, by the celebrated Neckar.

An ample list of works on this subject will be found in the second volume of Lelong's *Bibliothèque Historique*, pp. 819—829.

See *ante*, "Courts of Law," heading "Revenue or Finance Courts;" and *infra*, "Taxes."

Paraphernalia.

It was allowable for the wife, in the *pays de droit écrit*, to reserve to herself and at her own absolute disposal, a portion of her *dot*, and also such other property as might come to her by succession, or donation, &c. All this property,

both the reserved and the adventitious, was known by the general name of paraphernalia. The husband had no right to interfere with it.

In some of the *pays coutumiers*, a similar reservation might be made by marriage contract. By the *coutume* of Normandy (article 395), the wife was allowed, without any stipulation in her marriage contract to that effect, to have (by way of *préciput*) her *chambre garnie*, her clothes, linen, jewels, &c. or a certain sum of money, at her choice. This was also called paraphernalia.

Basnage, in his commentary on the 395th article of that *coutume*, seems to look on this privilege of the wife as being granted out of commiseration.

It may be necessary to add, that the *bagues, joyaux* (jewels, &c.) formed part of the common fund, when there existed a community of property between the husband and wife, unless an express stipulation was made to the contrary. If there was no community of property between them, then they belonged to the wife.

With regard to the respective rights of the husband and wife over her *dot* and paraphernalia, see Argou's *Instit. au Droit Franç.* liv. 3, c. 8, *ante*, p. 126.

Parliaments.

A parliament was a sovereign court established by the king, to adjudicate in the last resort in the king's name, and by virtue of his authority, as if he were actually present. It decided on appeals from the inferior tribunals within its jurisdiction; and was composed of lay and ecclesiastical judges, and other officers.

The parliament of Paris had original jurisdiction in several important matters, which will be found enumerated *infra*, under the heading "Parliament of Paris;" but in other respects the parliaments may be considered as much on a par, in regard to jurisdiction.

The number of parliaments throughout France, some short time previously to the Revolution in 1789, was thirteen. The names of them were as follows:—1. Paris. 2. Toulouse or Languedoc. 3. Grenoble or Dauphiny. 4. Bordeaux or Guienne. 5. Dijon or Burgundy. 6. Rouen or Normandy. 7. Aix or Provence. 8. Rennes or Brittany. 9. Pau or Navarre and Béarn. 10. Metz or the Three Bishoprics. 11. Dôle, Besançon or the County of Burgundy, or Franché-Comte. 12. Douay, or Tournay, or Flanders. 13. Nancy or Lorraine.

Some authors add to this list of parliaments the parliament of Dombes, which held its sittings at Trévoux, the capital of this little principality. But, as the principality itself was ceded to the king of France in 1762, and the civil and criminal matters of which it took cognizance were transferred to the parliament, chamber of accounts, and court of aids of Paris, and those matters of finance of which it took cognizance were transferred to the bureau of finances at Lyons, the compiler has not thought it necessary to enter into particulars in respect to this parliament.

There was also, in Berry, the principality of Henrichemont, belonging to the house of Béthune, which had a bailiwick and a sovereign court independent of the parliament of Paris.

The parliaments were generally composed of a grand chamber, a *tournelle* or chamber wherein criminal causes were decided, two or more chambers of inquests, and a chamber of requests. There was also formed in each of the parliaments and sovereign courts a chamber of vacations, which sat between

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the 8th September and the 12th November (the day after Martinmas). The chamber of vacations at Paris was appointed every year by the king, to decide those causes (both civil and criminal) which required dispatch: the members of this chamber appear to have belonged to the grand chamber, and had for their chief the first president. He opened the chamber of vacations on the 9th of the month (September), assisted by one of the presidents *à mortier* and the counsellors named in the king's commission. The first president sat usually only on the first day, and the president *à mortier* presided afterwards.

The general competency of the chambers of the various parliaments was much the same as that of the parliament of Paris, except in the particular subjects which were confined to the latter parliament.

To the greater part of the parliaments were also attached chambers of accounts and courts of aids, courts of the mint and chanceries (the presidial courts had also chanceries attached to them). The former courts have been already noticed, *supra*, p. 203; and as to the chanceries, they were generally composed of a chancellor, who was keeper of the seals, a certain number of secretaries, controllers, referendaries, and certain other inferior officers.

Touching the origin of the word "*parlement*," or "*parlamentum*" in low Latin, which appears to be synonymous with the ancient Teutonic "*mal*" or "*malen*," and the low Latin word "*colloquium*," some authors derive it from the Keltic: it exists in the French and Italian languages; and is used in England and Sicily to signify a national assembly.

References have been made by various French writers, both ancient and modern (from an apparent desire of showing the antiquity of the use of the word, or of the use of the court itself), to various authors as using the word *parlamentum* or *parlement*, in speaking of the public or other meetings, during the early period of the monarchy; but the compiler has been at the trouble of carefully investigating these references, and the conclusion of his researches is, that the earliest mention of the word *parlamentum* or *parliamentum* is to be found in Ingulf or Ingulphus's History of the Abbey of Croyland, in England. Ingulf is stated to have died in 1108. The word occurs again in the "*Gesta Ludovici regis filii Ludovici Grossi*," in the eleventh century; and again in Villehardouin's Chronicle: Villehardouin died about 1213. In the authors just quoted, the word *parlamentum* (or *parlement* in Villehardouin) merely denoted a meeting or council. In fact the word *parlamentum* or *parlement* was used to signify any meeting for the purpose of business, whether it was held by the king or by any number of barons, &c. The *bourgeois* of Paris had also their parliaments, wherein they discussed their general affairs,—this latter was also called *parlatorium* or *parloüerium*.

The word "*parlement*" was used frequently to denote the time of the sittings of the parliament of Paris, and accordingly we find in authors, the expressions *parlement de l'Assomption, de la Chandeleur, de l'Épiphanie, de Noël, des Octaves de la Chandeleur, des Octaves de la Nativité de la Sainte Vierge, des Octaves des Brandons, de Pâques, de la Pentecôte, de Saint-André, de Saint-Laurent, de Saint-Martin, de la Toussaint*, &c.—The word "*parlement*" was also used to signify the actual sittings of the parliament; hence the expression "this cause will not be decided in this parliament."

In ancient times, before the various parliaments were established, deputies from the parliament of Paris were sent to hold *grands-jours*, or parliaments as

they were often called, at various places, as at Toulouse, Troyes, and other cities, and an exchequer (*échiquier*) in Normandy. The *grands-jours* were continued till a very late period.

Besides these *grands-jours*, in former times certain commissioners were sent into the provinces, called the *missi dominici* (see *supra*, "MISSI DOMINICI"), for the purpose of administering justice in the king's name.

Des Essarts states that these commissioners assembled, at certain times, at the king's palace or wherever he was; and that the meeting of all the members of the king's court then formed his *cour plenière* or *plein parlement* (full parliament), which was held generally towards the time of the great festivals. And he adds, that when the parliament had become stationary at Paris, these commissions ceased.

The account given by other authors of the *cour plenière* (which court would not have been mentioned here, except that it occurs frequently in the ancient and modern French writers) differs from the above account. In Moréri's *Dictionnaire*, and in that of Trévoux, the *cour plenière* is represented to be a kind of festival, in which the king appeared in all his pomp and splendour, seated on his throne, and distributing valuable gifts, &c. to his courtiers and chief officers. The *cour plenière* appears to have been discontinued for several ages, but was attempted to be revived by Louis XVI. in 1788; and the edict for this re-establishment certainly appointed a very different court from that described by Moréri and the authors of the *Dictionnaire de Trévoux*. It was in fact a regular court of law, intended to supersede the parliament of Paris: the edict was vigorously opposed by the parliament of Paris, and the project was consequently abandoned.

The kings of France were accustomed at times to hold what was termed a *lit de justice*. This was a formal sitting of the king in the parliament, for the purpose of consulting the parliament on some important matter of state, or for trying a peer, or for the purpose of registering the royal ordinances, &c. The *grand' chambre* of the parliament was the place usually selected for the holding of a *lit de justice*: it was occasionally held however in other cities where there was no parliament. A particular account of the great ceremonies used on the occasion of holding the *lit de justice* at Versailles, in March, 1776, will be found in the 24th volume of the *Recueil général des Anciennes Lois Françaises*, pp. 398—433. This *lit de justice* was for the purpose of registering the edicts for the suppression of *corvées* (or rather their conversion into money payments), *jurandes*, &c. The parliament offered great opposition to this registration. The last *lit de justice* appears to have been held at Rennes, in Brittany, by the Comte de Thiard, for the king.

Besides the *lits de justice*, there were also other royal sittings in the parliament: these were not accompanied with the same ceremonies as the *lits de justice*.

The term *lit de justice* was also used to signify the canopy under which the king sat on such occasions.

Denisart, in his *Collection de Décisions*, considered the *lit de justice* as a "*continuation* of the general assemblies held in former times, which were known by the name of the *champ de mars* or *champ de mai*, and afterwards named *placita generalia*, *plein parlement*, *grand conseil*, and ultimately *lit de justice*."

The parliaments and the other sovereign courts had a right to send a remon-

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strance to the king, against any particular ordinance or other enactment by him, before they proceeded to register the same. Encroachments were made on this right, particularly by Louis XIII. and his son Louis XIV.; and in the reign of the latter, such right appears to have been suspended, or in abeyance. But immediately after the long reign of tyranny of the latter king, namely, on the 15th September, 1715 (he dying on the 1st of the same month), this right was revived, by a declaration dated the 15th of that month. And by letters-patent dated the 20th August, 1718 (confirmed by the king in a *lit de justice* held in the Tuileries the same day), regulations were made respecting remonstrances concerning the ordinances, &c.

The last enactment on the subject of the remonstrances was an edict of November, 1774, whereby it was directed that the remonstrances of the parliament of Paris, in respect of a new law, should be made within a month from the time of such new law being presented (*remise*) by the *gens du roi*.

It is recorded in the *Annuaire Historique* (for 1842), published by the Historical Society of France (*Société de l'Histoire de France*), at Paris, in 12mo., that Louis the Sixteenth's brother went, escorted by soldiers, in August, 1787, to the chamber of accounts and the court of aids at Paris, for the purpose of enforcing the registering of certain edicts.

The parliaments closed their sittings on the 7th September in every year, and began to sit again on the day after St. Martin's Day, that is, the 12th November. During the space of time between the 8th September and the 12th November, the chambers of vacation held their sittings. The opening of the various parliaments was usually attended with great ceremony; but it will be sufficient if the compiler furnishes a description of the opening of the parliament of Paris.

On the opening of the latter parliament, the presidents were clothed in their scarlet robes (*robes rouges*) trimmed with fur, and holding their mortar caps in their hand; the counsellors also wore their scarlet dresses and furred caps, and the *gens du roi* were dressed like the counsellors. They first went to hear a mass of the Holy Ghost, at which a prelate usually officiated; after which the parliament proceeded to the grand chamber, when, after the usual compliments, the first president administered the oaths to the *gens du roi*, and to the advocates and attornies. A few days afterwards, one of the advocates-general pronounced a discourse in the same chamber, on the duties of the profession of an advocate. The first president then spoke, and harangued on some subject similar to that treated on by the advocate-general. In both these speeches, eulogiums were passed on such of the advocates as had died in the course of the year, and exhortations were made to do their duty to their clients, &c. The roll of the causes of the Vermandois (that *pays* being entitled to have precedence) was then called on. The advocate, who had to open the case, took his *conclusions;* after which, the further hearing of the cause was put off till the next day, and no further business was done on that day. The parliaments were all abolished in 1790.

A chronological list of the first presidents in the parliament of Paris, from the time that it was made stationary or fixed till the year 1757, will be found in Moreri's *Dictionnaire*, article "*Parlement de Paris.*" The first president mentioned by him is Simon de Buci, who was appointed in 1344.

An alphabetical list of the styles and particular practices of the various parliaments and other sovereign courts and councils, will be found in the second

volume (Jurisprudence) of the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, articles 5578—5621.

In Lelong's *Bibliothèque Historique*, vol. iii. pp. 231—287, will be found a copious list of historical and other works on the parliaments, including the registers of the parliament of Paris; remonstrances made by the various parliaments and other sovereign courts; criminal trials before the parliaments, &c. An account of the registers of the parliaments of Paris, and of the various *grands-jours*, &c. will be found in the sixth volume of the *Encyclopédie Méthodique* (Jurisprudence), article "*Parlement de Paris*," and also (as to the parliament of Paris) in the *Profession d'Avocat*, vol. ii. p. 191.

In the first volume of Jousse's *Administration de la Justice* (noticed *ante*, p. 124) will be found a list of edicts, *règlements*, and other acts, made either by the kings or the parliaments, concerning the parliaments.

For an account of the various royal and other tribunals and jurisdictions, within the *ressort* of the various parliaments, see Expilly's *Dictionnaire*, either under the heading of the provinces which had parliaments, or of the chief cities of such provinces wherein the parliaments held their sittings.

In conclusion, it is particularly to be observed, that although all the provinces of France had not parliaments (there being only thirteen for the whole kingdom), yet they were all within the jurisdiction of some one or other of the parliaments.

TREIZE LIVRES DES PARLEMENS DE FRANCE, esquels est amplement traicté de leur origine et institution, et des Presidens, Conseillers, Gens du Roy, Greffiers, Secretaires, Huissiers et autres Officiers; et de leur charge, devoir, et jurisdiction: ensemble de leurs rangs, seances, gages, privileges, reglements et mercuriales. Par M. Bernard de la Roche Flavin, Sieur du dit lieu, Conseiller du Roy en ses Conseils d'État, &c. Fol. Bourdeaux, 1617.

A History (in 13 books) of all the Parliaments of France which were then in existence; treating of their origin and the institution of the Presidents, Counsellors, and the Officers of the same; by La Roche Flavin, first president of the chamber of requests in the parliament of Toulouse.

Bernard De la Roche Flavin was born in 1552, and died in 1627.

The books are divided into chapters. There is a dedication and a list of chapters, &c.

Book 1 treats of the origin, institution and establishment of the parliaments of France, and of their chambers; 2. Of the officers of whom the parliaments were composed; 3. Of the advocates; 4. Of the audience or sessions of the parliaments; 5. Of the opening of the parliaments; 6. Of installations, &c., the president's reception, counsellors, king's officers, &c. and the officers of the parliament and of their examination; 7. Of the other persons besides the president, &c. who had the *entrée* in the parliaments, and of their rank and places; 8. Of the office, duties, employment and functions of the presidents and counsellors of the parliaments, and of the other

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officers; 9. Of the delivery of the opinions, &c.; 10. Of the privileges, immunities and exemptions of the presidents, counsellors and other officers of the parliaments; 11. Of the *mercuriales*, and the censures, reprehensions and punishment of the presidents, counsellors and other officers of the parliaments; 12. Of the rank and order observed in the parliaments of Paris and Toulouse, in going and walking in a body "*en robes rouges*," &c. or in black robes; 13. Of the authority and jurisdiction of the parliaments.

This is the most learned and useful work on the subject.

1. Parliament of Paris.

This parliament was the first and the most ancient sovereign court in the kingdom. The authors, who have written on the subject of the origin of this parliament, differ greatly in opinion. Some of them (and indeed the greater part of the ancient French writers on the subject) regard this parliament as deriving its origin from the ancient assemblies of the nation (probably the later assemblies or councils, called *placita*).—See *infra*, "States-General."

Other writers contend that a similar institution was as old as the monarchy itself; and it seems very probable that a council or court must have been about the king's person, to advise him in matters, when the national councils or assemblies were not held, they being held only at certain times of the year, as aftermentioned.

Other authors, both ancient and modern, attribute the original institution of the parliament to Charles Martel, but more generally to Pepin the Short; and the following is the account given by La Roche Flavin, in his work entitled *Treize Livres des Parlemens de France* (noticed *ante*, p. 311). He says, "Pepin the Short, having resolved to go into Italy in person, to assist the pope against the king of the Lombards, and finding that he would therefore be unable to preside over the assemblies which might be held, during his absence, for the purposes of the general affairs of the state and [the administration] of justice, as had been his previous custom, as well as that of his predecessors; and that, as the majority of the great lords (*seigneurs*) of the kingdom would accompany him into Italy, and would thereby be hindered from forming part of the same assemblies; he ordered a 'council or parliament' [the word 'parliament,' as before observed, was not in use till upwards of three centuries after this period], composed of a certain number of persons of knowledge and experience, to take cognizance of, and to decide on, affairs of the greatest importance, and to administer justice in the last resort (*souverainement*), in his name and under his authority; and he appointed such councils or assemblies to be held about the time of the festivals of Easter, Whitsuntide (*Pentecôte*), *Nôtre Dame d'Août*, All Saints, and Christmas." La Roche Flavin adds, "that in remembrance of the holding of these councils at such times, it was the custom, after the parliament had been made stationary at Paris, for the court to pronounce the decisions of the *enquêtes* in scarlet robes (*robes rouges*—see *ante*, p. 310) on the eve of these festivals, which decisions only acquired the character of a public judgment by being thus pronounced; that afterwards this practice was confined to decisions of importance, and with which it might be necessary for the public to be made acquainted; and that ultimately the practice entirely ceased, after the death of the first president, De Verdon, in 1627."

The writer of the article "*Parlement de Paris*," in vol. 6 (*Jurisprudence*) of the *Encyclopédie Méthodique*, after noticing the general assemblies of the nation, and remarkiug that they formed the public council of the kings of France, observes, that there was, under the kings of the first and second dynasties, a particular court or council, which was composed of certain great personages, the principal officers of the kingdom, in which they conformed to what was practised amongst the Franks before their establishment in Gaul. And the author adds, that it is seen by the Salic law, that certain individuals selected from among the great men of the nation, and chosen in the national assemblies, undertook a particular portion of the labour of such councils, both during the term when they were held, and in the space of time which elapsed between such national meetings. The author says further, that these particular meetings differed from the general assemblies only in the fact of their being less numerously attended than the general assemblies; that they formed the king's ordinary council and his chief tribunal for urgent matters, for those which required secrecy, and for those which were necessary to be got ready for the general assemblies—that the persons who formed this council signed the charter granted by the king, and that from this practice was derived the custom of inserting in all laws the phrase "with the advice of our council"—that the difference which then existed between the king's court and the general assembly of the nation is marked on several occasions, and chiefly under Pepin the Short, in 754 and 767, when mention is made in various histories of an assembly of the nation being held by this king, and also that he held his council with the great men of the nation—that towards the end of the second dynasty, the general meetings being confined (as to their composition) to the barons or immediate vassals of the crown, the great prelates, and other persons chosen from among the clergymen and nobles, who were the same persons that constituted the king's court: that these two meetings were insensibly mingled together, and ultimately formed one and the same assembly or council, which was called the king's court or council; before which court were brought thenceforward all those matters which previously had been brought before the general assemblies of the nation and the king's court—that this conjunction of the two assemblies was perfected during the first three centuries of the third dynasty of kings—that although, from that period, the king's court took cognizance of matters which had previously formed the subject of deliberation in the national assemblies, yet the king's court was not, at any time, of the same nature as the other; for the national assemblies were not originally convened by the king, and besides, those who had the right of being present at them, under the kings of the first and partly under those of the second race, had the right of being present in their quality of *francs* or freemen (a quality or character which they did not hold from the king), whereas the king's court or council was chosen by the kings themselves, and was not, at any time, composed of other persons than those whom the kings thought proper to select, or those to whom they had granted the right of admittance, either on account of their being barons, peers, or bishops, or by virtue of a personal nomination; in general, however, the king's court was composed only of the great officers of the crown—that thus, although the king's court had arrogated to itself those matters which were discussed or managed in the assemblies of the nation, yet it could not be said that it was the same assembly, inasmuch as a difference existed in the constitution of the two assemblies or meetings.

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Count Beugnot, in his preface to the first volume of the *Olim* (see *ante*, p. 92), discusses the subject of the origin of the parliament of Paris at considerable length. He first mentions the general assemblies of the nation (that is, the assemblies in the early times of the monarchy, and not the States-General), and afterwards the two courts (as he terms them) of the king's palace and of the seneschal, under the Carlovingian dynasty. He contends that the parliament did not derive its origin from any of these three assemblies or courts. He then mentions two other courts,—namely, the king's supreme court, as composed of the grand feudatories, and the king's court, as appertaining to him in right of his own domains (formerly the domains of the duchy of France, which were in a manner alienated from the crown in 861, and were merged in the crown on the accession to the throne of Hugh Capet, the last duke of France, and the first king of the third dynasty). And the Count further remarks, that towards the end of the second dynasty of kings, France was divided into seven great fiefs (which will be found enumerated *infra*, under the heading "PEERAGE"); that each fief (including that of the duke of France) had its own peculiar court; and that consequently, according to the Count's opinion, there could not have existed any general court or council at the beginning of the third line of kings. He adds, that in consequence of the disturbed state of France towards the end of the tenth century (a fact fully confirmed by all the writers on French history and law), there neither existed any general assembly of the nation, nor any particular council belonging to the king. He seems to contend that the origin of the parliament of Paris is to be attributed to one of the two courts above mentioned, namely, the feudal or supreme court of the king, and the court which he held as lord of his own peculiar domains. The compiler is obliged to confess, that after perusing with very great attention (no less than three times) Count Beugnot's above-mentioned ingenious introduction, he has not been able to make out to which of these two latter courts it is that he ascribes the origin of the parliament of Paris. In conclusion, the compiler begs to add his own view of the subject. He thinks that, from the very earliest period of the establishment of the Frankish monarchy in France, there must have been, independently of the national assemblies, which (as has been before observed) were only called together once or twice a year, another council or meeting, whose object was the general management of all the affairs of the nation, when the usual national meeting did not take place; that this council or court (the existence of which is admitted by Count Beugnot, and by other previous writers) was composed of the great personages that formed the king's court or suite, or whom he thought proper to select for the purpose; that it was composed of the chief personages of the kingdom, both lay and ecclesiastical; that towards the decline of the second race of the kings of France, on account of the existence of so many separate sovereignties or grand fiefs into which France was then divided, there did not exist any really national assembly; and that the council or court, which, however diminished the authority of the king might be, was attached to the king, must be considered as forming the then existing national council; that from the end of the second line of kings, no other national council nor king's court, existed besides the one which was known till the Revolution by the name of the parliament of Paris, before the institution of the States-General in the year 1302; at which period the ancient national meetings were revived in the assemblies which were afterwards known by the name of the *États-Généraux*, and

the original king's court (then commonly called the parliament of Paris) was finally settled, as is supposed, in that city.

Whatever might have been the origin of this parliament (and the compiler fears that it is utterly impossible—and he says so after well considering the subject, and spending much time in the investigation of this difficult question—to come to anything like a satisfactory conclusion), it acquired, in very early times, a great repute for the soundness and equity of its decisions; and several instances are recorded by Denisart, in his *Collection de Décisions Nouvelles*, &c., and in various other authors, of references of their causes being made by different foreign potentates to this parliament for its decisions.

The king's court or council was known in early times by various names, as *concilium seniorum, mallum, synodus, placitum, placitum generale, conventus, conventus populi; curia regis, curia Franciæ, curia Gallicana; judicium Francorum, cort le roy, cour le roy*, &c., and ultimately *parlement*, which last word, taken by itself, signified the *parlement par excellence*, or the parliament of Paris.

This court was ambulatory for a great length of time, and followed the king's person; but it appears to have sat generally at Paris, towards the end of the thirteenth century. By an ordinance dated in 1302, promulgated in pursuance of a previous ordinance by him in 1291, Philippe-le-Bel ordained, that "for the convenience of his subjects, and the expediting of affairs," a parliament should be held yearly in time of war, and two parliaments in time of peace; and that two exchequers [the same as parliaments or *grands-jours*] should be held at Rouen, and *grands-jours* at Troyes (*dies Trecenses*) every year; and also that a parliament should be held at Toulouse every year, "if the people of that land should agree."

This ordinance has given occasion to various writers, both ancient and modern, to regard it as if it originally made the parliament stationary or fixed at Paris. There is nothing in the ordinance itself to authorize any such assumption. It was, however, probably intended to have that effect, and indeed might have ultimately led to that result.

Before the parliament was thus directed to be held twice a year at Paris, it appears to have been occasionally held as often as four times a year, but generally twice, namely, at Whitsuntide and All-Saints; it was also held at other times, as at the Ascension, at Christmas, Candlemas, &c.

Various quarrels between the court and the parliament took place in the eighteenth century, until at last the Chancellor Maupeou promulgated an edict in 1770, and on the parliament refusing to register it, the members were exiled in 1771, and another tribunal appointed in its stead, which went by the ridiculous name of the *Parlement Maupeou*. The other parliaments were also suppressed at the same time. On the accession of Louis XVI. in 1774, the parliament of Paris was restored, and the other parliaments shortly afterwards. They were ultimately abolished in 1791.

The parliament of Paris held its sittings in a palace given to it by one of the kings; some authors say, by Philippe-le-Bel; others, by Louis le Hutin.

This parliament comprised at one time within its jurisdiction the whole or nearly the whole of the kingdom, but in later times it comprised only the following provinces, *pays*, &c., namely, the Île de France, Champagne, Brie, Picardy, Le Perche, La Beauce, Maine, Touraine, La Sologne, Berry, Le Nivernois,

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Anjou, Poitou, L'Aunis, Le Rochelois, L'Angoumois, La Marche, Le Bourbonnois, Le Mâconnois, Auvergne, Le Forez, Le Beaujolois and Le Lyonnois.

It was composed of six chambers,—namely, a grand chamber, a *tournelle*, three chambers of inquests, and one chamber of requests. At times a *tournelle* for civil causes was established, when the *grand' chambre* was too much pressed with business. It consisted of a first and nine other presidents *à mortier*, eight presidents of chambers, about 129 counsellors, lay and ecclesiastical [the most ancient of the counsellors was called the dean (*doyen*)]; several *conseillers-nés*, —namely, the princes of the blood, the other lay and ecclesiastical peers, the chancellor, or the archbishop of Paris, the abbots of Cluny and Saint-Denys, the governor of Paris, and a certain number of the masters of the requests of the king's household, several counsellors *d'honneur*, three advocates-general, an attorney-general, and fourteen substitutes. Besides the above members, there were numerous other officers, under the names of registrars, secretaries, receivers, *huissiers*, &c. Expilly, in his *Dictionnaire*, makes the number of members and other officers amount in his time (1762—70) to about 571, and, adding the advocates and attornies practising in this court, to 1497.

The term *président à mortier* signified a president wearing a cap of a certain shape, something like a mortar, or of a roundish form. This cap was of velvet, and edged with a row of *galon;* the first president had two rows of *galon*. The chancellor and the keeper of the seals also wore a mortar cap of gold cloth, edged and turned up with ermine. The chief registrar also of the parliament wore a mortar cap.

In respect generally of the authority of this parliament, it is to be observed, that it had exclusive cognizance of causes affecting the peers of France and their peerages; of the king's *régale* and other rights; of the guardianship or regency of the kings during their minority; and the wills of Louis XIII. and Louis XIV. touching the minority of their successors, were sent to the parliament of Paris to be confirmed. In this court treaties of peace were registered It also registered the king's ordinances, &c. In ancient times, it was constantly consulted by the kings on matters of importance affecting the state. It took cognizance also of the causes of the Hôtel-Dieu of Paris, and of several other corporations, &c. The following is a detailed account of the jurisdiction of the chambers of this parliament, taken separately:—

1. The Grand Chamber.—Originally the parliament consisted only of one chamber, which was called in ancient times the *chambre du plaidoyer*, *chambre des plaids*, *camera placitorum*, the *grand' voute*, and ultimately the *grand' chambre du parlement*, probably on account of the important matters decided therein, and to distinguish it from the chambers of inquests, the *tournelle*, and the chambers of requests, which were established in later times.

This chamber took cognizance of all verbal appeals from the decisions of the presidial courts, bailiwicks, and other tribunals, both ordinary and extraordinary, appeals from which lay to the parliament. It took cognizance also, in the first instance, of those causes wherein the attorney-general was a party for the king's rights generally, and in respect of those lands which were held of the crown by way of appanage; of the king's *régale;* of the causes of the Hôtel-Dieu, of the *grand bureau* of the poor, of the general hospital of Paris, and of other corporations, &c. which had the privilege of having their causes brought before this chamber in the first instance; of the crime of high treason, without excepting

any person; of criminal proceedings against the principal officers of the crown, the presidents and counsellors of the parliament of Paris; the presidents, masters and auditors of the chamber of accounts at Paris, noblemen, clergymen, and other persons *d'état*. In respect of criminal proceedings against noblemen and clergymen, and the officers of the royal courts, from which appeals lay immediately to the parliament, they had the privilege of demanding to be tried by a general meeting of the grand chamber and the *tournelle*.

This chamber also took cognizance, in the first instance, of the causes of the peers of France, and of the rights of their peerages, on which account the parliament of Paris was also called the court of peers. This chamber administered the oaths to the dukes and peers, and to the bailiffs, seneschals, and other magistrates within the jurisdiction of the parliament.

2. The *Tournelle* or *Chambre Criminelle*.—This chamber, according to some authors, was so called because some of the counsellors of the grand chamber and the chamber of inquests took it by turns to sit in the *tournelle*, lest, as Ferrière says in his *Dictionnaire*, the habit of sitting to condemn persons to death might change the natural mildness of the judges, and render them cruel (*inhumains*). Other authors derive the name of this chamber from an ancient tower of the palace (called the *tournelle*), where the members of this chamber of the parliament formerly sat. The *tournelle* took cognizance of criminal causes by way of appeal, when a corporal or degrading punishment was to be inflicted. In respect of delicts, or petty crimes and misdemeanors, which incurred only a pecuniary penalty or fine, such causes were brought before the chambers of inquests.

3. The Chambers of Inquests.—These chambers pronounced touching the validity of appeals by proceedings in writing; they also took cognizance of certain appeals (*incidentes* and principal), and of causes in the first instance, which, although they were within the cognizance of the grand chamber, were sent to be decided, in the first instance, to the chambers of inquests, by way of evocation from the grand chamber of this parliament, and also from the other parliaments; and also of appeals from judgments which inflicted merely a pecuniary mulct or penalty.

4. The Chamber of the Requests.—This chamber decided in the last resort on all actions personal, real (*possessoires*) and mixed, between the *commensaux* or commoners of the king's household, and other persons who had the privilege of the *committimus*.

The fullest, and at the same time the most detailed information respecting the origin of the various parliaments generally; the origin of every chamber of the parliament of Paris; the increase and subsequent diminution of the number of its members; the rights and privileges of the presidents and other counsellors, and of the various officers of the parliament generally; the times of meeting; the usual sittings; the times of vacation, and every other particular respecting the same,—will be found under the article "*Parlement*," in the 6th vol. of the *Encyclopédie Méthodique* (*Jurisprudence*), which article was originally written by M. Boucher d'Argis. Other information on the subject will be found in La Roche Flavin's work, noticed *ante*, p. 311, and also in the works of the authors referred to in that article. See also *infra*, "STATES-GENERAL."

MÉMOIRES DU PARLEMENT DE PARIS, ou Recueil de ses Déliberations Secrètes, Arrêtés et Remontrances, avec les Lits

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de Justice qui y ont été tenus, &c.; par J. J. M. Blondel, &c. Vol. I. 8vo. Paris, 1803.

Mémoires of the Parliament of Paris, or a Collection of the Deliberations, Decisions, and Remonstrances of the same, with an Account of the *Lits de Justice* held in the same parliament from the year 1302 until the year 1791, when all the parliaments were abolished by the constituent assembly; by Blondel, a lawyer.

This work was to be completed (according to Dupin) in forty volumes, but four volumes only appear to have been published.

HISTOIRE DU PARLEMENT DE PARIS; par A. Aubenas, Sous-chef du Cabinet de M. le Garde des Sceaux. Vol. I. 8vo. Paris, 1848.

History of the Parliament of Paris, by Aubenas. This work is to comprise several volumes.

2. PARLIAMENT OF TOULOUSE, OR OF LANGUEDOC.

This was the second parliament in the kingdom, in priority of time. It would seem, that the earliest sovereign jurisdiction in the province of Languedoc and its resort, were the *grands-jours* held by the counts of Toulouse.

The *grands-jours* (called at times the *parlement comtal*) of Toulouse were instituted by Alphonse Count of Poitou in 1266, but many authors maintain that they had a much earlier existence. It is an undoubted fact, that the counts of Toulouse were accustomed to decide in the last resort on all matters affecting their subjects and vassals, without appeal to any other court than their own.

In 1302, Philippe-le-Bel, on the petition of the states of Languedoc, established the parliament of Toulouse, as it existed in after times, and made it stationary in that city. A previous ordinance of this king, dated in March, 1302, had directed that a parliament should be held twice a year at Paris and Toulouse. The king opened this parliament in person, and with great ceremony.

In 1312, this parliament was suppressed, or rather incorporated with the parliament of Paris; but it was re-established at Toulouse in 1420. It was again incorporated with the parliament of Paris in 1428, but was re-established at Toulouse in 1443.

This parliament was formerly sometimes called the parliament of the Languedoc, to distinguish it from the parliament of Paris, then also called the parliament of the Languedoil or Languedoui. It comprised within its jurisdiction the province of Languedoc and the *pays* of Rouergue, Quercy, Foix, Armagnac, Astarac, Comminges, Conserans and Bigorre. It consisted of five chambers, namely, a grand chamber, a *tournelle*, two chambers of inquests and a chamber of requests. The members of the parliament were, a first president and nine other presidents *à mortier*, eight counsellors, presidents of chambers, about ninety counsellors, four of whom were clergymen, two episcopal counsellors, two *conseillers-nés* (the archbishop of Toulouse and the abbé of Saint-Sernin), two *chevaliers d'honneur*, three advocates-general, an attorney-general and seven substitutes, a king's advocate and attorney, and another king's advocate for the department of the waters and forests, two chief and other registrars, a chief and other *huissiers*, and several other officers. The governors of Languedoc and Guienne had the *entrée* in this parliament, after their letters of appointment had been registered therein.

3. Parliament of Grenoble, or of Dauphiny.

This was the third parliament in the kingdom, in the order of time. It was anciently called the *conseil delphinal*, which appears to have been instituted by the Dauphin Humbert in 1337, who first established it at Saint-Marcellin, and afterwards fixed it at Grenoble. This council was composed of a chancellor and six counsellors.

Louis XI., while dauphin of the Viennois, changed this council into a parliament in 1451, and granted it the same honours and privileges as were enjoyed by the other parliaments. This institution was confirmed by his father, Charles VII., by an edict dated in 1453.

By letters-patent dated in 1628, this parliament was confirmed in its jurisdiction as to aids, which it had enjoyed for some time previously. This jurisdiction was separated from the parliament, but was restored in 1658.

This parliament comprised within its jurisdiction the province of Dauphiny and the principality of Orange. It consisted, previously to its suppression in 1771, of four chambers or *bureaux*, called the first, second, third and fourth chambers, and there was neither a grand chamber, a chamber of inquests, nor a *tournelle* in this parliament; but after its revival in 1775, it consisted of a grand chamber, a *tournelle*, and a chamber of inquests. The members of the parliament were, a first president and eight other presidents *à mortier*, fifty-two counsellors, four of whom were clergymen, two *chevaliers d'honneur*, three advocates-general, an attorney-general and six substitutes, a chief registrar and several others, a chief *huissier* and eleven others, and various other officers.

The archbishops and bishops of the province had the *entrée* and a seat in the parliament, but the Bishop of Grenoble alone had a right to vote as a *conseiller-né* of the parliament.

4. Parliament of Bordeaux, or of Guienne.

This was the fourth parliament in the kingdom, in the order of time.

A sovereign court appears to have been established at Bordeaux, while Guienne formed part of the dominions of England, and it was in all likelihood called a parliament. This court or parliament was re-established in 1451, and confirmed in the following year. The parliament held its sittings about this time at the *château* of Lombrerières, which was the seat of the ancient dukes of Aquitaine; and the province was shortly after within the jurisdiction of the parliament of Paris, until Louis XI., at the solicitation of the states of Guienne, reinstated the parliament at Bordeaux, by letters-patent dated in 1462.

It held several *grands-jours*. François I. directed, in 1519, that the parliament of Bordeaux should hold *grands-jours*, like the parliaments of Paris and Toulouse; and in 1535 a president and several counsellors of this parliament were directed to hold the *grands-jours* at Périgueux, from the 1st of October till the end of the month. It held *grands-jours* also at Périgueux during the months of September and October, 1567.

The parliament of Bordeaux or Guienne comprised within its jurisdiction the Bordelois, or Guienne properly so called, the Agenois, the Bazadois, the Condomois, the Landes, the *pays d'Albret*, Gascony, Limousin, Perigord and Saintonge. It consisted of five chambers, namely, a grand chamber, a *tournelle*, two chambers of inquests, and a chamber of requests. It was composed

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of a first president and nine other presidents *à mortier*, six presidents of chambers, sixty-nine counsellors, several *conseillers d'honneur*, two of whom, namely, the archbishop of Bordeaux and the governor of Guienne, were *conseillers-nés*, two *chevaliers d'honneur*, two advocates-general, an attorney-general and three substitutes, two chief and several other registrars, three secretaries, a chief and sixteen other *huissiers*, and several other officers.

5. Parliament of Dijon, or of Burgundy.

This was the fifth parliament in the kingdom, in the order of time.

The dukes of Burgundy appear to have established two councils, under the name of *grands-jours*, one of which sat at Beaune, and the other at Saint-Laurent-lez-Châlons. The *grands-jours* were in the course of time known by the name of parliament, but appeals lay from them to the parliament of Paris.

When the duchy of Burgundy reverted to the crown of France in 1361, on the death of Philippe-le-Rouvre, king Jean granted sovereign authority to this parliament. He also gave the duchy as an appanage to his youngest son, Philippe-le-Hardi; and this prince and his successors, like the ancient dukes of Burgundy, held their *grands-jours* or *jours-généraux* at Beaune. The *grands-jours* held at Laurent-lez-Châlons were for the county of Auxerre and the Bresse Châlonnoise.

On the death of Charles the Bold in 1477, Burgundy was ultimately re-annexed to the crown of France, in the reign of Louis XI. But the states of Burgundy having petitioned the king to establish in the duchy of Burgundy and county of Charolois and the dependent territories, a sovereign council, to be styled a parliament, Louis XI., by an edict dated in March, 1476, instituted a sovereign council, which was to be held thenceforward under the name of parliament, with full and sovereign power, and to be in the stead of the *grands-jours*. And by the same edict, he ordered that the parliament of Dôle and Saint-Laurent-lez-Châlons should be kept as sovereign courts, as they had been of old.

The parliament of Dijon or Burgundy comprised within its jurisdiction that part of ancient Burgundy which consisted of the Charolois, the Autunois, the Auxois, the Auxerrois, the Dijonois, the Châlonnois, La Bresse, &c. The Mâconnois and the county of Bar-sur-Seine were within the jurisdiction of the parliament of Paris. This parliament consisted of four chambers, namely, the grand chamber, a chamber of inquests, a *tournelle*, and a chamber of requests. It was composed of a first president and nine others, two presidents of the requests, three counsellors *d'honneur-nés* (the bishops of Dijon, Autun and Belluy), two *chevaliers d'honneur*, sixty-eight counsellors, six of whom were clergymen, two advocates-general, an attorney-general and eight substitutes, two chief registrars and several registrars' clerks, a chief and other *huissiers*, and several other officers.

6. Parliament of Rouen, or of Normandy.

This was the sixth parliament in the kingdom, in the order of time. The original of this parliament was the *échiquier* or court of exchequer of Normandy, a tribunal instituted (as some authors maintain) by Rolf or Raoul, the first duke of Normandy.

The exchequer decided both civil and criminal causes by way of appeal; but, as the sittings of this court were not regular, the grand seneschal of Normandy

decided provisionally on matters which required despatch. This tribunal was ambulatory for ages, and followed the king's court. This being found inconvenient, the states of Normandy petitioned Louis XII. in 1499, to make the tribunal stationary at Rouen, which the king effected by an edict dated in the same year. In the year 1515, François I. ordered the name of *Échiquier* to be changed into that of parliament.

While this tribunal was a court of exchequer, it was composed of all the notables of the province, and the ecclesiastics and the nobles had a right of sitting and of voting therein.

There was at one time an *échiquier* (equivalent to a parliament) also at Alençon, but it was suppressed by an edict in 1550. There was also a council at Alençon, but it was suppressed at the same time as the court of exchequer. Alençon had also a chamber of accounts, which was suppressed in 1549.

The last exchequer was held in 1497, according to Expilly, who remarks, that it furnished two large volumes of reports; and he adds, rather humorously, that this proved law-suits to have been on the increase in that court.

The origin of the word "*échiquier*" is uncertain. Some derive it from the German *schicken*, to send, because this court was composed of persons commissioned or sent to administer justice (*missi dominici*). Others derive it from the fact, that the floor of the hall where justice was administered was paved in imitation of a chess-board, or on account of the cover of the table, at which the judges sat, being wrought also after the same fashion. It is probably derived from the Italian word *scacchiere*, a chess-board.

The parliament of Rouen comprised within its jurisdiction the whole province of Normandy. It was composed of five chambers, namely, a grand chamber, a *tournelle*, two chambers of inquests and a chamber of requests. The members of the parliament were, a first president and nine other presidents *à mortier*, two presidents of requests; ninety-five counsellors, seventeen of whom were clergymen; three counsellors *d'honneur-nés* (the Archbishop of Rouen, the Abbé of Saint Ouen, and the Marquis of Pont-Saint-Pierre); several other counsellors of honour, among whom was the Bishop of Léez; two advocates-general, an attorney-general and nine substitutes, who were also king's advocates; a chief and other registrars, a chief and eleven other *huissiers*, and several other officers.

7. Parliament of Aix, or of Provence.

This was the seventh parliament in the kingdom, in order of time. It was first established as a parliament by Louis II., Count of Provence, in 1415; in 1424 it was called the "*Conseil Éminent*;" and in 1501 it again received, by virtue of a royal edict, the name of parliament.

The jurisdiction of this parliament extended over the whole of Provence and the neighbouring countries depending on it, and included the valley of Barcellonnette.

The parliament of Aix heard appeals from the decisions of the French consuls established in the Dardanelles and on the coast of Barbary. It had the privilege of proclaiming peace, and the proclamation was made with a great deal of ceremony.

This parliament was composed of three chambers, namely, a *grand' chambre*, a *tournelle*, a chamber of inquests, which was also a chamber of requests and of waters and forests. The members of this parliament were a first president, and

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nine other presidents *à mortier;* fifty-seven counsellors, one of whom was a clergyman; three advocates-general; an attorney-general and four substitutes; four chief and several other registrars; four notaries and secretaries of the court; a chief *huissier* and eleven others, and other officers. To this parliament were attached an advocate and an attorney for the causes of the poor.

8. PARLIAMENT OF RENNES, OR OF BRITTANY.

This was the eighth parliament established in the kingdom, in order of time. It derived its origin from the *grands-jours* appointed to be held by the counts and afterwards by the dukes of Brittany. These assemblies were (according to various authors) called *grands-jours* at Paris, and *parlements* in the provinces. An ordinance of Louis IX., being a treaty between him and the duke of Brittany, and dated in 1231 (*Anciennes Lois Françaises*, vol. 1), however, expressly recognized the parliament of Brittany, and directed that appeals in certain cases should lie from that parliament to the parliament of France (that is, of Paris). A parliament appears to have existed in this province so early as the year 1120.

Appeals from the decisions of the seigneurial judges of the province lay to the judges appointed by the counts and dukes, who sat at Rennes or Nantes; and these latter took cognizance of appeals from the whole of the province to the *plaids généraux* (*placita generalia*). Appeals lay also from the decisions of these judges to the council of the duke, and from the council to the *grands-jours* or parliament.

The original composition of the *grands-jours*, or parliament of Brittany, appears to have chiefly consisted of a president and some counsellors of the parliament of Paris, sent by the king for the especial purpose of holding a court. The *grands-jours* were generally held every two years.

In 1491, Charles VIII., who had married Anne of Brittany, the daughter of the last duke of that province, established a new council instead of that of the dukes, and appointed proper officers for the same. In four years afterwards Charles ordered, by an edict dated the 27th November, 1495, that the *grands-jours* or parliament should be held every year. Appeals lay from these *grands-jours* to the parliament of Paris.

The *grands-jours* or parliament of Brittany were constituted an absolute sovereign court under the name of parliament, by an edict of Henri II., dated in 1533. This parliament appears to have been transferred, at various times, to Nantes and Vannes, but was ultimately re-established at Rennes in 1689.

This parliament comprised within its jurisdiction the whole province of Brittany. It consisted of five chambers,—namely, a grand chamber, a *tournelle*, two chambers of inquests, and a chamber of requests. The members of the parliament were a first president and nine other presidents *à mortier;* eight presidents of chambers, 106 counsellors, two counsellors *d'honneur-nés* (the bishops of Rennes and Nantes); two advocates-general, an attorney-general and three substitutes; two chief registrars and five others; a chief *huissier* and thirteen others.

9. PARLIAMENT OF PAU, OR OF NAVARRE AND BÉARN.

This was the ninth parliament in the kingdom, in the order of time. The ancient princes of Navarre and Béarn had a supreme court of justice, styled *cor major* (*cour majeur*), wherein were decided cases on appeal from the inferior jurisdictions. This court consisted of two bishops and twelve barons.

In 1328, Philippe III., count of Evreux and king of Navarre, assembled the

states of the kingdom at Pampeluna, and established a council or parliament; and in 1519, Henri II., of the house of Albret, and king of Navarre, established a sovereign council or parliament at Pau, which was to be permanent in that city. The same king established a chamber of accounts at Pau, giving it jurisdiction over Lower Navarre and Béarn, and also over the counties of Foix and Bigorre, the viscounties of Marsan, Tarsan, Gavardon, and the barony of Captieux, the viscounties of Lautrec, Nebouzan, the barony of Aster-Villemare, and the four *Vallées* of Aure.

In 1620, Louis XIII. created the parliament of Navarre and Béarn out of these two jurisdictions; and he also united the chamber of accounts of Nerac to the above-mentioned chamber of accounts, under the title of the Chamber of Accounts of Navarre.

In 1691, Louis XIV. made an alteration in these courts by uniting the chamber of accounts with the parliament, and by attributing to it the cognizance of all those matters which were within the jurisdiction of the chambers of accounts in the other provinces, and of that of the court of the mint; so that this parliament was at the same time also a chamber of accounts and a court of aids and finances.

The parliament of Pau comprised within its jurisdiction the bishoprics of Lescar and Oleron; included the Merindade of Navarre (that is, the province or kingdom of Lower Navarre), and the *pays de* Soulle. It consisted of four chambers or departments,—namely, a grand chamber or first *bureau*, a second *bureau*, a *tournelle*, and a chamber of accounts and finances. It was composed of a first president and seven other presidents *à mortier*, fifty-six counsellors, two *conseillers-nés* (the bishops of Lescar and Oleron), two *chevaliers d'honneur*, two advocates-general, an attorney-general and four substitutes, a chief and other registrars, a chief and other *huissiers*, and other officers.

10. Parliament of Metz, or of the Trois-Evêchés.

This was the tenth parliament in the kingdom, in the order of time. The three bishoprics of Metz, Toul, and Verdun became, after the death of King Raou or Rolf, in the time of Louis IV. (called *d'Outremer*, or beyond the seas, as being born in England), King of France, subject to the Emperor Otho I. and his successors. The cities of Metz, Toul and Verdun were governed by counts. While these bishoprics were under the dominion of the emperors of Germany, the causes of the inhabitants might be brought before the imperial chamber at Spires.

In 1552, Henri II. conquered Metz, Toul and Verdun, and declared himself the protector of those three cities, and they were secured to him by the treaty of peace in 1559. They were again secured to France by the treaty of Vervins, in 1598. And Henri IV. established a tribunal at Metz, to take cognizance of all causes of dispute which might arise between the inhabitants of that city and the garrison.

In 1633, Louis XIII., on the petition of the states of this province, and in order to carry out the intentions of his father Henri IV. in that respect, by an edict dated in 1633, established a parliament in this province.

The parliament of Lower Lorraine and Metz comprised within its jurisdiction the province or department of Metz, which included the *pays Messin*, with the

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bishoprics of Metz, Toul, Verdun, and the dependant countries. This province was usually called the *pays des Évêchés*, or *les Trois Évêchés*.

This parliament consisted of four chambers,—namely, a grand chamber, a *tournelle*, a chamber of inquests, and a chamber of requests. It was composed of a first president and eight others, seven counsellors *d'honneur-nés*, two counsellors *d'honneur*, two *chevaliers d'honneur*, forty-five counsellors, four of whom were clergymen [there were formerly six others of the reformed religion], two counsellors correctors of the accounts, four counsellors auditors, two advocates-general, an attorney-general and six substitutes, two chief and other registrars, and several *huissiers* and other officers.

The bishops of Metz, Toul, and Verdun, the abbé of St. Arnoud, and the governor of the city of Metz, were at one time (if not immediately before the revolution in 1789) lay counsellors in this parliament.

11. Parliament of Besançon, or of the County of Burgundy or Franche-Comté.

This parliament was the eleventh in the kingdom, in the order of time, and was known, formerly, by the name of the parliament of Dôle and of the parliament of Valins.

The origin of it appears to have been the council instituted by the ancient counts of Burgundy, instead of the general bailiwicks existing in the province.

Philip the Good, duke and count of Burgundy, made this council or parliament stationary at Dôle in 1422; it had been ambulatory before this time. Without changing either its form, functions or authority, he made it to consist of himself, his chancellor, a president, two *chevaliers*, eleven counsellors, two advocates-general, an attorney-general and a substitute, a registrar, and four *huissiers*. The two masters of the requests to this province had also the right of *entrée* in the parliament.

When Louis XI. conquered Franche-Comté, the states of Burgundy requested him to keep up the parliaments of Dôle and Saint-Laurent-lez-Châlons, with which request he complied. He also afterwards transferred the parliament of Franche-Comté to Salins, and made it semestral for the two Burgundies, as there was at that time no parliament in the duchy of Burgundy.

The parliament was, on the petition of the states-general of the province, transferred from Salins to Dôle, by the archduke Philip, in 1500. The parliament of Dôle was confirmed by the emperors Maximilian and Charles V., the Archduchess Margaret and Philip II., and by Philip IV.

On the conquest of Franche-Comté by Louis XI., the parliament of Dôle was confirmed by him; and on the second conquest of the province by this king in 1674, it was ceded to the crown of France by the treaty of Nimeguen in 1678. Louis XIV. transferred the parliament from Dôle to Besançon in 1676.

This parliament comprised within its jurisdiction the whole of the province of Franche-Comté, and was composed of four chambers, namely, a grand chamber, a *tournelle*, and a chamber of the waters and forests, and also of the requests of the palace. It consisted of a first president and nine other presidents *à mortier*, fifty-eight counsellors, twenty-four *conseillers honoraires*, three *chevaliers d'honneur*, three advocates-general, an attorney-general and four substitutes, a chief and several other registrars, a chief and other *huissiers*, and several other

officers. There were also attached to this parliament two advocates for the poor, and another for prisoners.

12. Parliament of Douay, or of Tournay or Flanders.

This was the twelfth parliament in the kingdom, in the order of time.

This court was at first established at Tournay, under the title of "sovereign council," and received, in 1686, the name of "parliament."

Tournay having been taken in 1709, the parliament was transferred to Cambray; and Tournay and the Tournais having been ceded to France by the treaty of Utrecht in 1713, this parliament was transferred to Douay, where it remained stationary till it was abolished, together with the other parliaments, in 1790.

That part of Hainault which was ceded to France by the treaty of the Pyrenees (1660), and consisted of the towns, bailiwicks and dependencies of Quesnoy, Avenes, Philippeville, Marienbourg and Landrecies, was within the jurisdiction of the parliament of Metz, by virtue of two edicts dated in 1661 and 1668. But by another edict dated in 1678, these places were withdrawn from that jurisdiction, and placed within the cognizance of the sovereign council of Tournay.

In 1679, Louis XIV. placed within the jurisdiction of the same council, the cities of Ypres, Cassel, and several others, with their dependencies, bailiwicks, *prévôtés*, &c. which had been then lately ceded to France by the treaty of Nimeguen. So that this parliament at length comprised within its jurisdiction all the conquests made by Louis XIV. in Flanders, Hainault and the Cambresis, except Gravelines, Bourbourg and Dunkirk, which were within the jurisdiction of the parliament of Paris.

It was composed of four chambers, namely, a grand chamber, a *tournelle*, a chamber of inquests, and a chamber of requests. It consisted of a first president and five other presidents *à mortier*, twenty-four counsellors, two of whom were clergymen, three *chevaliers d'honneur*, an advocate-general, an attorney-general and two substitutes, a chief and several other registrars, and various other officers.

This parliament had the peculiar privilege, that its decisions could not be quashed, but the causes might be reviewed. And it is to be remarked, that the laws and customs of Flanders were observed in this parliament, and that the civil ordinance of 1667, and the criminal ordinance of 1670, were not in use therein.

13. Parliament of Nancy, or of Lorraine.

This was the thirteenth parliament in the kingdom, in the order of time.

This parliament (so far as concerned the province or duchy of Lorraine) originated in the assizes which were held in Lorraine during the sittings of the states of the province. The gentlemen of the *ancienne chevalerie* and their *pairs* were the only judges that composed this tribunal. In 1634 Louis XIII. abolished this tribunal, and substituted for it a sovereign council at Nancy This latter tribunal was afterwards replaced by the parliament of Metz.

During the period of the existence of the assizes, there was also at Saint-Mihiel (for the duchy and province of Bar) another tribunal, called the *cour des hauts-jours* or *grands-jours*, wherein the dukes of Bar adjudicated in person, with the assistance of their great officers and vassals. This latter tribunal was converted into a parliament by an ordinance dated in 1571. This parlia-

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ment was confirmed by Louis XIII. in 1634, by the same edict whereby he instituted a sovereign council at Nancy. By another edict, dated in 1635, this parliament was suppressed, and its jurisdiction transferred to the sovereign council of Nancy. In 1641 this council was constituted a sovereign council by Duke Charles IV., with fuller powers than it had ever before enjoyed. About the year 1670 its jurisdiction was transferred to the parliament of Metz; but by an edict dated in 1775, it was again established as a court of parliament.

The two provinces of Lorraine and Bar were re-annexed to France in the reign of Louis XV.

The proceedings in the parliament of Nancy, and in the tribunals within its jurisdiction, were not regulated by the ordinances of Louis XIV., but by a code promulgated by Duke Leopold in 1707.

This parliament comprised within its jurisdiction Upper Lorraine and the Barrois; part however of the latter, namely, the bailiwicks of Bar and of La Marche, were within the jurisdiction of the parliament of Paris.

It consisted of four chambers, namely, a grand chamber, a *tournelle*, a chamber of inquests and another of requests. It was composed of a first president and five other presidents *à mortier*, thirty-one counsellors, two of whom were clergymen; seven counsellors of honour, four of whom, namely, the primate of Lorraine (the bishop of Nancy), the bishop of Toul, the grand dean of the cathedral church of Nancy, and the grand *prévôt* (the bishop of Saint-Diez), were *conseillers prélats*; two advocates-general, an attorney-general and six substitutes, a king's advocate and a substitute, a secretary, two chief registrars and several others, and several *huissiers* and other officers.

Paternal Authority.

Traité de la Puissance Paternelle; par Louis Astruc. 12mo.

A Treatise on the Authority of Fathers, by Astruc.—See *ante*, p. 127.

Patronage.—See *supra*, Ecclesiastical Law.

Pays d'États.—See *infra*, States (Provincial).

Peerage, Peers.

The origin of the peers (or rather of the twelve peers of France, who made so conspicuous a figure in the earlier part of the middle ages under the name of the twelve peers of Charlemagne, or the twelve peers of France, *les douze pairs*, &c., or, as the Spaniards called them, *los doce pares de Carleman, de Francia*, &c.,) has formed the subject of much investigation among the antiquarians and historians of France; but it appears to the compiler to be, like the origin of the parliament of Paris, involved in very great obscurity—an obscurity from which it is impossible to extricate it.

The title of a peer (not to enter into the subject of that title being applied to the peers or jurymen, by whom, as their *pares*, individuals were to be tried not only among the ancient Franks, but also among all the other nations of Gothic or Teutonic origin; nor of its being applied to the jury or homage of the various *communes*, and also of the *seigneurs* of fiefs, who were termed *pares* or *pairs*)

seems to have been appropriated to the great landholders of the kingdom, who were called *barons*, of whom the king's council or court was mainly constituted. The term *pairs* or *pares* was also applied to the sub-feudatories of the landowners or barons.

In process of time, the title of peers seems to have been confined to the great feudatories of the crown. At the time of Hugh Capet's accession to the crown, France was divided into seven great fiefs, which were in fact (in a manner) so many real sovereignties, the king possessing but a very small tract of country, and having apparently no fixed capital, but still being supreme head. These fiefs were the duchies of Normandy, Aquitaine, Burgundy, and France, and the counties of Toulouse, Flanders, and Vermandois, afterwards succeeded by the county of Champagne. When Hugh Capet, duke of France, ascended the throne in 987, the duchy merged in the crown, and only six grand feudatories remained. One of the first acts of the new sovereign was to confirm or rather recognize the authority of his late co-feudatories, with the usual reservation of military service and fealty to himself. The title and quality or privileges of the barons still continued, notwithstanding the reduction in the number of the *pares* or great barons.

The origin of the institution of the twelve peers has been ascribed to various kings by different authors. Some writers, on the authority of the celebrated chronicle ascribed to Turpin or Tilpin (the name is spelt in both ways),—a work which is generally called supposititious, and is stated to have been composed either in the tenth, eleventh, or twelfth century (manuscripts of the work having been found of those different ages),—consider Charlemagne as the founder of the twelve peers. Other authors attribute their institution to other kings, and to a later period.

Mezeray, at p. 173 of the 1st vol. of his *Histoire de France* (ed. 3 vols. fol. Paris, 1643), gives the following account of the origin of the peers. He says (speaking of Charlemagne's expedition into Spain in 778), "This *voyage* having been resolved in the council, all the *seigneurs vasses ou suzerains*,—that is, the grand feudatories, whose *arrière-dependans* or sub-feudatories were called vassals, and who had the right of deciding in the last resort by the king's authority, equal among themselves, and in a manner the king's peers, inasmuch as in the national meetings or councils (*états*) they partook of (*partageoient*) his authority,—accompanied him in this expedition, whence is derived the common opinion that he (Charlemagne) instituted the twelve peers, although this dignity was fixed at twelve and was afterwards increased only under the descendants of Hugh Capet." In the next page, he notices Turpin's chronicle, which he calls a *livre fabuleux et supposé*. He then enumerates the Saracen worthies and the twelve paladins of France, and mentions, rather contemptuously, the "*quatre fils Aymon*" and their "*château de Montaubau*,"—he might have called it, and very appropriately too, their *château en Espagne*. It may be added, that the *véritable* Turpin was a contemporary of Charlemagne, and was archbishop of Rheims.

At page 434 of the same volume, Mezeray says that, according to the conjectures of some authors, the twelve peers first assisted at the coronation of Louis (afterwards called "le Jeune"), son of *Louis le Gros*, which took place in 1130. The grand feudatories mentioned as being present on this occasion, were Henry of England duke of Normandy, Eudes duke of Burgundy, Guillaume of Normandy duke of Flanders, Thibaud count of Champagne, Raimond count of Toulouse,

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and Guillaume count of Poitou. It must be observed, that Mezeray declines giving his own opinion touching the origin of these peers.

Mezeray states, at p. 369 of the same volume, that it is very probable that Hugh Capet, when settled on the throne, left the sovereignty of the various territories to the lords who held them, and that they began about this time to assume the title of *pares* or *pairs* (peers), as being *égaux et pairs à luy*, i.e. the king.

Other authors mention the first assembling of the twelve peers to have taken place at the consecration and coronation of Philippe (afterwards called *Auguste*), which took place in 1179, in the lifetime of his father, Louis le Jeune. It is to be observed, that on neither of these occasions are the peers named as being twelve in number, nor as constituting a particular body. Towards the end of this century the ecclesiastical peers seem to have been created; thus forming, with the six lay peerages above enumerated, the complete number of the twelve peers of France.

The following list of the twelve ancient or feudal peers of France, both ecclesiastical and lay, including a specification of the offices performed by them at the king's coronation, may not be unacceptable to the reader:—

The Ecclesiastical Peers.

1. The Archbishop Duke of Reims, the *premier* peer of France; he performed the ceremony of crowning the king, and of anointing him with the oil of the *Sainte-ampoule*.
2. The Bishop Duke of Laon; he carried the *Sainte-ampoule*.
3. The Bishop Duke of Langres; he carried the sceptre.
4. The Bishop Count of Beauvais; he carried and presented the royal mantle.
5. The Bishop Count of Châlons; he carried the royal ring.
6. The Bishop Count of Noyon; he carried the royal banner.

In process of time the archbishop of Paris was made Duke of Saint-Cloud and a peer; the rank or precedence of his peerage was regulated, like that of the lay peerages, according to the time of the creation of this peerage.

The Lay Peers.

1. The Duke of Burgundy, styled the dean of the lay peers; he carried the royal crown, girded on the king's sword, and conferred on him the order of knighthood.
2. The Duke of Aquitaine or Guienne; he carried the first square banner.
3. The Duke of Normandy; he carried the second banner.
4. The Count of Champagne; he carried the war-standard.
5. The Count of Toulouse; he carried the king's spurs.
6. The Count of Flanders; he carried the king's sword.

The earliest mention which the compiler has found of the recognition of the peers as a body (and as the twelve peers), is in the case of the summons, in 1203, of King John of England, to answer, as duke of Aquitaine, and consequently *homme-liege* of the king of France, before his co-peers at the court of Philippe-Auguste, for the murder of Arthur duke of Brittany, nephew of King John. John was condemned (though not present) as guilty, and his fiefs in France were confiscated. The existence of the court of peers in France is thus satisfactorily proved at this period. It may be added, that females could and did actu-

ally sit in the court of peers, in the parliament of Paris, of which several instances are recorded; among whom may be enumerated Mahault, countess of Artois, who sat in parliament, as a peer, in 1309. But the right of females to sit in parliament, or the court of peers, fell into desuetude, and was at last abolished by express enactment.

The ancient lay peerages reverted to the crown in the following order,—namely, the duchies of Normandy and Aquitaine, and the county of Anjou, in 1203, on the condemnation of King John by the court of peers; the county of Toulouse in 1270; the county of Champagne in 1284. The county of Flanders ceased to be a fief of France at a later period.

The peerages that were instituted after the falling in of the ancient peerages were all created by letters-patent of the king. The first peers that were thus created were the duke of Brittany and the counts of Anjou and Artois, by Philippe-le-Bel, in 1297; the former was made a *duché-pairie*, and the two latter *comté-pairies*. These new peerages received other names than those of the ancient peerages, but were invested generally with all the rights and privileges of the ancient peers. At first they were granted only to the princes of the blood. The ancient peers were represented, at the coronation of the kings, by the princes of the blood, or by the dukes and peers, that is, the holders of duchy-peerages. This representation also took place at the ceremony of the coronation of Louis XIV.

It is necessary to remark, that, besides the *duché-pairies* and *comté-pairies* (duchy and county peerages), there were created also duchies and *comtés*, &c. that were not peerages; and further, that a difference existed between the new peerages in this particular,—that those which were registered became thereby hereditary, and gave the right of the *entrée* in the parliament, whereas those that were not registered did not give that right, and became extinct on the death of the person on whom the honour was conferred: certain privileges, however, as the *honneurs* of the Louvre, or "*la cour*," appear to have survived to their widows. These honours consisted in the privilege of entering the court of the Louvre in a carriage,—of hunting with the king,—of riding in the king's carriage,—of the wives of such privileged persons sitting on a *tabouret* in the queen's drawing-room, &c.

The duchy-peerages being in possession of the elder branches of the family, the heads of the younger branches obtained hereditary duchies, or the titles of dukes by simple *brevet*. A *duché-pairie* was a certain extent of territory, on which that title was conferred. The holders of such duchies had a peculiar jurisdiction of their own; and appeals from the decisions of their judges (for they could not adjudicate themselves) lay directly to the parliament of Paris.

The number of the peers at the time of the Revolution in 1789 was as follows:—7 ecclesiastical peers, 6 princes of the blood, and 41 other lay peers.

The last enactment relating to the peerage was an edict of May, 1711. One of the articles enacted, that the princes of the blood should represent the ancient peers of France at the king's coronation, and should have the right of entry, a seat and a vote in the courts of parliament, at the age of fifteen, as well at the *audiences* as at the *conseil*, without any formality, and even if they did not possess peerages. The dukes and peers were allowed to represent the ancient peers, in case there should not be any princes of the blood.

The archbishop of Paris was the *premier* peer of France.

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An ample account of the peers, their duties, rights, &c. will be found in the 6th vol. (*Jurisprudence*) of the *Encyclopédie Méthodique*, article "*Pair de France.*"

In the first volume of De Courcelle's *Dictionnaire Universel de la Noblesse de France* (a work noticed in the modern part of this division of the Catalogue, under the heading, among the Treatises, "NOBILITY"), will be found, at pp. 222-229, a list of the duchy-peerages which were registered, beginning in 1297, and ending in 1787; a list of duchy-peerages unregistered; and a list of hereditary dukes not peers, and dukes *à brevet*. It may be necessary to remark, that when the peers sat in the parliament of Paris, such sitting constituted a "court of peers," as it was termed.

HISTOIRE DU GOUVERNEMENT DE LA FRANCE, de l'Origine et de l'Autorité des Pairs du Royaume et du Parlement; par Lelaboureur. 12mo. The Hague, 1743.

A History of the Government of France, and of the Origin and Authority of the Peers, &c., by Lelaboureur, an eminent historian.

LETTRES HISTORIQUES SUR LES FONCTIONS essentielles du Parlement, sur le Droit des Pairs, &c. [Par Le Paige.] 12mo. Amsterdam (Paris), 1753-4.

Historical Letters on the Functions of the Parliament of Paris, on the Rights of the Peers, and on the Fundamental Laws of the Kingdom, by Le Paige.

Louis-Adrien Le Paige, an advocate in the parliament of Paris, and bailiff of the Temple, died in 1802.

LES QUATRE AGES DE LA PAIRIE DE FRANCE, ou Histoire Générale et Politique de la Pairie de France, &c.; par S. V. Zemgano (Goezman). 2 vols. 8vo. Maëstricht, 1775.

The Four Ages of the Peerage of France,—namely, the Peerage *de Naissance*, that *de Dignité*, that *d'Apanage*, and that *de Gentilhomme*, by Goezman, a counsellor in the parliament of Paris, who died about 1795.

A list of works on this subject, and on the orders of knighthood, &c. will be found in the third volume of Lelong's *Bibliothèque*, pp. 672—694.

POLICE.

TRAITÉ DE LA POLICE, où l'on trouvera l'Histoire de son Établissement, les Fonctions et les Prérogatives de ses Magistrats; toutes les Loix et tous les Règlemens qui la concernent, &c., par M. Delamare, Conseiller-Commissaire du Roy au Châtelet de Paris. 4 vols. fol. Paris, 1722—38.

A Treatise on the Police of France, including a History of its Establishment, the Ordinances, &c. relating thereto; with eight Plans of Paris, showing its progressive Increase, the Statutes, &c. of Guilds of Trades, &c.; by Delamare or De Lamere.

The author was born in 1639; he was a *conseiller-commissaire* at the *Châtelet* of Paris, and died in 1723.

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This work is divided into six books, which are subdivided into titles, chapters, sections, and paragraphs. The first five books are by Delamare, and the sixth is by Le Clerc-du-Brillet. There are two dedications, a preface, and a biographical account of Delamare. Each volume has an index of the books, titles, &c., and an index of subjects. According to the plan contained in the preface, Delamare intended, it would seem, to divide his work into twelve books: of these twelve books or parts he has given an account in the preface to the first volume.

Vol. I. Book I. Of the Police in general, and of its Magistrates and Officers.

Tit. 1. General idea of the police; 2—5. Of the police of the Egyptians, the Hebrews, the Athenians and other Greek States, and the Romans; 6. Of the police of France, and its magistrates; 7. Historical and topographical description of Paris, from the earliest times; 8. Of the police of Paris; 9, 10. The jurisdiction of the provost of Paris in matters of police, &c.; 11. Of the king's attorneys and solicitors generally [this is valuable]; 12. Of the *conseillers—commissaires—enquêteurs—et examinateurs;* 13. Of the counsellors; 14. Of the *magistrats d'épée;* 15 Of obedience to the magistrates; 16. Of the observance of the laws.

Book II. Of Religion.

Tit. 1. Of the police in matters of religion; 2. Of the Pagans; 3. Of the Jews; 4. Of heretics; 5. Of apostates and the relapsed; 6. Of the pacification of the troubles brought on the church on account of Jansen's book; 7. Of the respect due to churches; 8. Of the keeping or observance of Sundays and holydays; 9. Of the keeping or observance of Lent, &c.; 10. Of processions; 11. Of pilgrimages; 12. Of confraternities; 13. Of the establishments of new communities, corporations, &c.

Book III. Of Manners or Morals.

Tit. 1. Of luxury in clothing, furniture, equipages and buildings; 2. Of feastings, &c.; 3. Of plays, &c. [this is curious, and contains an account of the origin of the French Theatre]; 4. Of gambling, games, lotteries, &c. [this is very curious]; 5. Of courtezans, brothels, &c.; 6. Of blasphemy and swearing; 7. Of magicians, sorcerers, diviners and prognosticators, &c.

Book IV. Of Health.

Tit. 1. Of health generally; 2. That the salubrity of the air contributes to health; 3. Of the police in matters relating to the water used by the public; 4—9. Of the police in matters relating to provisions generally; 10, 11. Of medicines, physicians, &c.; 12. Of leprosy; 13. Of epidemical diseases, contagion, or the plague; 14. Of the precautions to be taken to prevent the spread of contagion in towns, &c.

Vols. II., III. Book V. Of Provisions.

Tit. 1. Of the trading in provisions generally; 2. Of wheat and other corn; 3. Of trading in corn generally, its origin, and how it was carried on among the Athenians and Lacedemonians [this and the next title are very interesting]; 4. Of the police of the Romans in

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matters relating to the trading in corn, &c.; 5—14. Of the police of France in relation to the same subject, and to bakers, &c., sea-fish, &c.; 15—45. Of other provisions, &c.; 46, 47. Of drinks [title 46 includes a history of the vineyards of Asia, Greece, France, Germany, &c.; it is very interesting]; of *liqueurs*, &c.; 48—50. Of fire-wood, coal and charcoal, and hay.

Vol. IV.—Book VI. Of the Public Roads, Streets, &c.

Tit. 1. Of the police in respect of this matter; its etymology, utility and division; 2. Of buildings generally; 3. Of the breadth and straightness of the streets; 4. Of the police in France in respect of buildings; 5. Of fires generally, and of those happening at Paris especially; 6. Of the pavement of the streets of Paris; 7. Of cleaning the streets; 8. Of inundations; 9. Of impediments to free passage in the streets, &c.; 10. Of the embellishing and decoration or ornamenting of cities, &c.; 11. Conclusion of the historical and topographical description of Paris, and its present state; 12. Of vehicles generally [this title includes hackney-coaches, carts, boats, &c.]; 13. Of highways, bridges and causeways; 14. Of posting and the *messageries;* 15. Of the jurisdiction over all matters relating to the public roads, streets, &c. (*voiries*).

Dictionnaire Universel de Police, contenant l'Origine et les Progres de cette partie importante de l'Administration Civile en France, les Lois, &c. qui y ont rapport, par Desessarts. 8 vols. 4to. Paris, 1786—91.

A Digest of Police Matters, by Des Essarts. It reaches down only to the article "Police."

Code de la Police, &c. par Duchesne. 2 vols. 12mo. Paris, 1767.

The Police Code, by Duchesne, a lawyer. He composed two other works on law.

Préciput.

This term signified the taking (*prélevement*) of a particular portion of an inheritance, or other property divisible on the death of a person, by a certain individual, either as heir, or otherwise legally or conventionally entitled, before any division of the inheritance or other property took place. The word is derived from the Latin verb *præcipere*, which means "to take first." *Préciput* was either legal, that is, by operation of law, or conventional, that is, by previous agreement.

The legal *préciput* prevailed in the *pays coutumiers* only, and was either general or special. The general *préciput* was a right which was allowed, by the greater part of the *coutumes*, to the eldest son (or other co-heir); this right consisted in his being entitled to the principal manor house or mansion in every fief belonging to his deceased father and mother, together with a piece of inclosed ground or garden, large enough for the flight of a fowl (*chapon*), and thence the phrase "*vol du chapon.*"

Besides the *préciput*, the heir was entitled to an additional portion of the inheritance after such *préciput* had been taken.—See *infra*, "PRIMOGENITURE."

This *préciput* was called by some authors the *préciput de l'ainé*, and also the *part avantageuse*.

Another kind of legal *préciput* prevailed in the customary laws of Paris, and also in other *coutumes*, and was generally called the *préciput des conjoints nobles*, or the *préciput des nobles*. This right occurred only in cases of a marriage between a nobleman and his wife, and was granted by the *coutumier* to the survivor of them. This *préciput* accrued in respect of all the *meubles corporels* which were in the possession of the *conjoints* on the day of the decease of either party. Some of the *coutumes* did not require the *conjoints* or married couple to be noble.

This right did not accrue if there were children of the marriage,—nor if there was no community of property between the husband and wife,—nor if the community was renounced.

The conventional *préciput* arose by an express clause in marriage contracts, that the survivor of the *conjoints* (married couple) should take a certain amount or quantity, according to the stipulations, of the money or other moveables of their common property. This *préciput* was additional to the survivor's share of the common property.—See Lebrun's works, *ante*, p. 154, and Pothier's works, No. 18, *ante*, p. 166.

PREROGATIVE (RÉGALES).

The king's prerogatives (*régales* or *droits régaliens*) were divided into major and minor (*droits régaliens majeurs* and *droits régaliens mineurs*). The greater prerogatives belonging to the king consisted in his power of enacting laws, levying soldiers, making peace and declaring war, exercising jurisdiction in the last resort, creating dignities, orders of knighthood, magistrates, public officers; coining money, naturalizing foreigners, legitimating children, ennobling commoners, granting letters of mortmain. The minor prerogatives consisted in the rights of fishing and the chase, the right of having salt works (*salines*), the property of certain things of which the public had the use, as the public highways, the rivers, isles, alluvion, tolls and turnpikes, &c.; estrays, waifs, wreck, &c.

An important prerogative belonging to the crown concerned the king's right in respect of vacant benefices, &c.; it was styled the *régale*.

The king enjoyed the revenues of all the vacant archbishoprics and bishoprics (except those of Cambrai and Lyons), from the moment of the death of the incumbents, until the new incumbents had sworn the usual oath of fealty to the king, and had registered the oath in the chamber of accounts.

The *régale* also gave the king the right of appointing to all the vacant benefices without cure of souls, to which the deceased prelate had the right to appoint.

The *régale* extended formerly to abbeys, but the right was not exercised in latter times.

A work on the subject of the *régale* was published by F. Pinsson, in 2 vols. 8vo. Paris, 1668.

PRESCRIPTION.

TRAITÉS DES PRESCRIPTIONS, DE L'ALIÉNATION DES BIENS DE L'ÉGLISE, ET DES DIXMES, suivant les Droits Civil et Canon,

TREATISES. la Jurisprudence du Royaume, et les Usages du Comté de Bourgogne. Par M. F. J. Dunod de Charnage, Écuyer, ancien Avocat au Parlement, &c. 4to. Paris, 1753.

Three Treatises on Prescription generally, and also in respect to the alienation of Ecclesiastical Property and to Tithes, by Dunod, formerly an advocate in the parliament of Paris.

The work is divided into two parts, which are subdivided into chapters. This is the third edition. The two latter treatises have no division of chapters.

There is an *avertissement*, an index of chapters, and an index of subjects.

The chapters of the first part treat of prescription in a general way, and those of the second treat of prescriptions for one year, two, three, four, five, six, ten, twenty, thirty, forty, and one hundred years, and of time immemorial, &c.; of prescription in respect to minors, married women, servitudes, fiefs, &c.; and of prescription with respect to the alienation of ecclesiastical property and tithes.

PRIMOGENITURE (DROIT D'AÎNESSE).

This was a right which accrued, in the *pays coutumiers*, to the eldest son of a deceased person holding a noble fief or a noble *franc-alleu*. It was not applicable to fiefs *ruraux* or not noble, nor to *francs-alleus roturiers*. This right consisted in his having the *préciput* (see *supra*, "PRÉCIPUT") in every inheritance of his father and mother, and also a larger portion (*part ou portion avantageuse*) of the fief, than his younger brothers. By the *coutume* of Paris, the eldest son had two thirds of the fiefs, in case he had but one younger brother; if he had more than one, then he was only entitled to a moiety instead of two thirds.

The *coutumes* however varied as to the quantity of the *portion avantageuse*.

This practice existed only in the *pays coutumiers*, and not in those provinces that were governed by the Roman law.

The *droit d'aînesse* does not exist in the modern laws of France.

See *supra*, "MAJORAT" and "PRÉCIPUT."

PRIVILEGES (PRIVILÈGES).

Privilèges were of various kinds, the principal of which were the following:— 1. The privileges enjoyed by the *commensaux* of the royal households (see below), and various other persons, of having their causes tried before particular tribunals (see *supra*, "COMMITTIMUS"); 2. Those enjoyed by certain creditors, either by virtue of the securities (*gages*) in their possession, or by conventional mortgage, or the hypothecation or lien arising from the decision of the judge in creditors' suits. Moveable property only could be pledged (*donnés en gage*), and immoveables only hypothecated. No creditor could avail himself of his pledge or his mortgage (conventional), without first bringing the matter before a judge, and having his decision for the sale of the debtor's property. Priority took place among creditors, in respect both of their pledges and mortgages (see *supra*, "MORTGAGES," and in the Repertories and Dictionaries, the articles "*Gage*" and "*Hypothèque*"). 3. The privilege or preference enjoyed by other creditors who had no security for their claims, and were termed *créanciers chirographaires privilégiés*: this privilege was granted in respect of funeral expenses, medicines

&c., house-rent, servants' wages, &c. The privilege of the builder of a house, &c. is stated by Ferrière, in his *Dictionnaire*, to have been entitled to preference before all other privileges; 4. To these privileges are to be added those of the clergy, of the universities (called *privilège de scholarité*), of the fisc, and of other bodies and individuals.

DE SCOLASTICORUM, BIBLIOPOLARUM, atque cæterorum Universitatum omnium Ministrorum, Juratorumque PRIVILEGIIS, &c. 12mo. Paris, 1540.

The Privileges of Scholars, Booksellers, and other bodies, &c.

This treatise is divided into three books, the first of which treats of the requisites for study, &c.; the second, of the duties of scholars; and the third is an interpretation of the constitution of the Emperor Frederic I., beginning *Ne filius pro patre*, &c. There is an index.

RENATI CHOPINI Andegavi J. C. et in summo Parisiorum Senatu Advocati, DE PRIVILEGIIS RUSTICORUM: libri tres. Folio. Paris, 1575.

A Treatise on the Privileges of Country People, that is, Agriculturists, &c., by Chopin, an advocate in the parliament of Paris.

A general notice of Chopin and his works has been already given, *ante*, p. 138, and a detailed account of two of his principal works, namely, a Treatise on the Domains of the Crown of France, and a Treatise on Ecclesiastical Law, will be found *ante*, pp. 247, 253.

The present curious work is divided into three books, which are subdivided into parts, &c. The first book treats of the privileges and duties of the *rustici* in the ordinary transactions of life, such as contracts, debts, wills, &c. The second book treats chiefly of their usual employments in the country, and of prescription, usufruct, and other miscellaneous matters. The third book treats of actions by and against the *rustici*. There is a preface and two indices.

CODE DES PRIVILÉGIÉS. 8vo. Paris, 1656.

The Code of Privileged Persons, being a collection of enactments touching such persons.

See *supra*, "MILITARY LAW."

CODE DES COMMENSAUX. 2 vols. 12mo. Paris, 1724.

The Code of the *Commensaux*. These were the domestic officers of the king's household, &c., who had their diet provided at the court.

PRIZE LAW.

TRAITÉ DES PRISES, ou Principes de la Jurisprudence Françoise concernant les Prises qui se font sur Mer; par M. Valin. 2 vols. 8vo. La Rochelle, 1763.

A Treatise on Prize Law, or the Principles of French Jurisprudence on Captures at Sea, by Valin.

TREATISES.

René-Josué Valin, a king's attorney, and an attorney to the admiralty court at Rochelle, was born in 1695, and died in 1765. He composed, besides the present work, a Commentary on the *Coutume* of La Rochelle and the Pays d'Aunis, 3 vols. 4to. La Rochelle, 1750; and a Commentary on the Marine Ordinance of 1681. See *ante*, p. 21.

The first volume of this work is divided into chapters, and subdivided into sections and articles or paragraphs. It also contains the articles of the ordinance of 1681, relating to prize law.

The subjects of the chapters are as follows:—The lawfulness of making captures; the privileges, &c. of privateers; the rules to be observed, &c.; captures made after peace is concluded; what vessels may be captured; neutral vessels; re-captures; to what ports, &c. prizes should be taken; the proceedings of the admiralty court; ransoms; reprisals; registry, &c.

CODE DES PRISES, ou Recueil des Édits, &c. sur la Course et l'Administration des Prises, &c. 2 vols. 4to. Paris, 1784.

The Code of Prize Law, being a collection of enactments on the subject.

The collection was made by Chardon, who was appointed attorney-general to the royal council for prizes.

PROCEDURE.

The following is a sketch of a civil and also of a criminal action, taken principally from Pothier's two treatises on civil and criminal procedure. Pothier may be considered as a safe guide for that purpose, and his treatises have the advantage of having been composed a very short time before the Revolution in 1789; the latest information on the subject is thus furnished. The compiler has taken the chief portion of the sketch of civil procedure from the first part of Pothier's work on the subject; he has also taken extracts from the third, fourth, and fifth parts. The second part of Pothier's treatise is confined to the procedure peculiar to summary matters.

It may be useful to inform the reader that, previously to the Revolution in 1789, the jury system was totally unknown in France, and that the use of torture was not entirely abolished in that country till the year 1788. It may be added also, that there were no courts in France similar to what are called in England equity courts.

I. *Civil Procedure.*

OF THE ORDINARY PROCEDURE, FROM THE DEMAND TO THE DEFINITIVE SENTENCE OR JUDGMENT, AND OF APPEALS.

1.—*Of the Manner of bringing Actions.*

The first step to be taken by a person, in bringing an action against another, was to summon (*ajourner* or *assigner*) him before a competent tribunal; this was generally the tribunal of the place where the defendant was domiciled, according to the rule, *actor forum rei sequitur*. Nevertheless, the privileges of the demandant, or the nature of the subject-matter of the demand, made it necessary, at times, to bring the cause before a different tribunal from that of the defendant's domicile.—See *supra*, "JURISDICTION" and "PRIVILEGES."

The defendant was summoned by a competent officer, called *huissier* or *sergent*,

who drew up an *acte* in writing on the occasion: the original of this *acte* remained with the plaintiff, and a copy (or several copies, if there were several defendants) was served on the defendant: both the original and the copies were to be on stamped paper.

The summons might be made in any place where the officer found the party; but not in a church generally; nor, with respect to a doctor, or a student (*écolier*), during the time of school, &c. No merchant or tradesman could be summoned while on 'Change, nor a judge while in court.

The summons was to be delivered to the defendant himself, or at his usual place of abode: exceptions to this rule were made in favour of noblemen and certain other persons. Summonses were to be made in the day time, and not at night, nor on Sundays, or festivals or holidays, with certain exceptions however. It was not necessary that the copy should be delivered into the hands of the defendant; it was sufficient if it was delivered to a competent person at his usual place of abode,—as to a child of the defendant, or a servant, or a porter of the house, provided that every such individual was of the age of discretion. If no person was found on the premises, then the officer might fix the copy on the door of the house, and call on one of the neighbours to sign the original, &c.

The *acte* (also termed *exploit*, a name common to all acts done by *huissiers* and *sergens*) was to contain the christian name, surname, place of abode, signature, and authority of the *huissier*. It was also to contain the names of the plaintiff and defendant, the name of the judge before whom the defendant was summoned, &c.; a summary of the nature of the demand and the grounds of it [this was called the plaintiff's *moyens*, or *fins et conclusions*, that is, a declaration], and the amount, if it was a sum of money; the time allowed to appear; and the name of the plaintiff's attorney, if one was employed. The summons had then to be registered by a public officer; this act of registration was called *contrôle*, and the officer was called *contrôleur des actes*. Mention of this act was to be made on the summons, and the *exploit* had to be presented to the *contrôle* within three days from its date. The failure to register the summons annulled it.

The time allowed for the defendant to appear and defend differed according to the jurisdiction; but it was generally eight days, if the party lived in the place where the court sat,—if not, then a longer time, proportioned to the distance, was allowed.

2.—*Of the Manner in which Actions were defended.*

The demandant, after putting in his demand, had to present himself to the registry of presentations (if there was one) belonging to the tribunal, within a certain time after the period for appearing, &c. mentioned in the summons,—namely, a fortnight (*quinzaine*) in respect of the superior courts, and a week (*huitaine*) for the other tribunals. The object of this act on the part of the plaintiff was to register his own name and that of his attorney.

The next step to be taken was, that the defendant should appoint an attorney. This was not necessary in some of the inferior jurisdictions. This appointment was to be notified by the attorney to the plaintiff's attorney, by a copy of the appointment (the original being kept by the defendant's attorney), as was also the kind of defence to be made to the action.

The word *défenses* is defined by Pothier to comprehend every thing that a

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defendant could oppose to a demand. The principal pleas (*exceptions*) put forth by a defendant, in answer to the action, were of three kinds,—namely, pleas peremptory, pleas dilatory, and pleas *déclinatoires* to the jurisdiction, &c. Pothier names only two principal kinds of pleas,—the plea peremptory, and the plea dilatory, which he divides into the plea *déclinatoire* and the simple dilatory plea.

A plea peremptory (*exception péremptoire*) was a plea that demurred generally to the action or demand without entering into the merits of the demand; it entirely put an end to the demand of the plaintiff, and, as Ferrière expresses it, "*tend à faire débouter le demandeur des fins et conclusions par lui prises,*" and to absolve the defendant from the demand. Pleas peremptory are divided by Pothier into two kinds,—namely, those which attacked some want of formality in the summons, &c., and those which went to the right or substance of the demand (*droit*). Both these kinds of pleas might have been put in at any time during the progress of the cause. The former kind (if allowed) did not exclude the plaintiff from pursuing his claim, by beginning again with another summons, &c. The other kind of peremptory plea (called also *fin de non-recevoir*—Ferrière says that this last expression is applicable to all peremptory pleas) went to prove that the plaintiff had no right to bring the action; that it was not *recevable*, because a *transaction* (accord) had taken place; that the time had gone by for making the claim, &c.

A dilatory plea (*exception dilatoire*) was a plea that did not do away with the action, but only deferred it; as if an action was brought against an heir, he would have put in this plea to gain time to deliberate, &c. The same plea would have been put in by a debtor, if an action had been brought against him for a sum of money not become due, &c. This kind of plea ought to be put in *à limine litis*, before the *contestation en cause*. A plea to the jurisdiction (*exception déclinatoire*) was a plea whereby the defendant excepted to the judge before whom he was cited to appear, as not being his natural judge, and demanded to be sent before the proper tribunal; and also if there was a *lis pendens* for the same matter, and between the same parties, before another tribunal, the defendant might require to be sent before that tribunal. The judge was obliged to comply with these requisitions under a heavy penalty. The judges themselves, before whom such causes ought to be brought, might object to another judge assuming jurisdiction in the matter. This was called *révendication d'une cause*. Exceptions might also be made to a particular judge, and even to the whole court: these exceptions were called *récusations*, and were made both in civil and criminal matters. The principal reasons for excepting to the judge, &c. were, that he was a relation, within certain degrees, to one of the parties, or that he was in some way interested in the cause. If the exception was allowed, it was the duty of the judge to abstain from taking part in the cause.

It may be observed, that pleas to the jurisdiction (as well as pleas dilatory) ought to be made before the *contestation*, and that, according to Ferrière, the former ought to be made before any other exception. Pothier enumerates other pleas in chap. 2, part 1, of his *Procédure Civile*. When the defence set up by the defendant was notified to the demandant, he might answer (*répliquer*) the same by an *acte* notified to the defendant's attorney: this was to be done within three days from the notice of the defence. Formerly the defendant might have answered the demandant's *réplique* by a *duplique*, to which the other might have replied by a *triplique*. The *dupliques* and *tripliques* were abolished by the ordi-

nance of April, 1667. The defendant might also, besides his pleas, &c., make a demand against the plaintiff, if he had any to make: such a demand was called a *réconvention*, or *demande incidente*. A third party might also intervene in the cause, either to join the defendant or the plaintiff (being interested in the same matter), and either before or after the *contestation*. This coming in of a third party was called *intervention*.

3.—*Of the Contestation en Cause, and of the Instruction.*

When the defence was put in (*fournie*), three days were allowed (as before mentioned) to the plaintiff to put in his *réplique*, or that the advocates on both sides might prepare for the *plaidoirie*. At the expiration of the three days, either party might signify to the other, by an *acte* (called *avenir*) from the one attorney to the other, his intention of being in court (*à l'audience*) on such a day, and summon the other party to be there also, to prosecute the suit. The party giving this notice, or the other party, then presented to the judge a *placet*, containing the names, &c. of the parties in dispute. The judge thereupon had the cause called on, if no other matters were more pressing. When the cause was called on, either through being on the roll, or on the *avenir* or the *placet*, it was argued (*plaidé*) by the advocates of the parties, or by the attornies if it was a trifling matter. If it could be decided definitively on the *plaidoirie*, the cause was pleaded *contestée*, and decided at one and the same time: if not, then the interlocutory sentence (sometimes called a *règlement*), given by the judge on this *plaidoirie*, whatever it might be, formed the *contestation en cause*.

When the demand or the defence was grounded on a private instrument (*sous seing privé*), and the opposite party would not own the hand-writing and signature, the judge ordered a *reconnaissance* and verification of the hand-writing, &c. to be made.

If one of the parties grounded his claim on a document which was not in his possession, but which, as stated by him, was in the possession of another, who could not or would not deliver it to him without a judge's order, the judge thereupon ordered a *compulsoire*.

If the *contestation* turned on the *status* (*état*) of the thing in dispute, the judge ordered a *visite* to be made by *experts* (persons experienced in such matters); and sometimes, when requested so to do, the court directed that the judge should proceed to the spot (*faire sa descente*) for the purpose of an actual inspection.

If the facts adduced by one party were denied by the other, the judge permitted the facts to be proved by an *enquête*; this order was called an *appointement à vérifier*.

When a party, in order to procure proof of facts that might decide the cause by the avowal of the other party, demanded that the party should be interrogated by the judge on *faits et articles*, the judge allowed it to take place. When the cause brought into court (*à la audience*) could not be decided there from the multiplicity of the items of demand, or from the number of the *actes* on the examination whereof the decision of the cause depended, the judge ordered an *appointement en droit*, or an *appointement à mettre*, or an *appointement de délibéré*. (See *infra*, for a definition of these terms.)

These various proceedings, enumerated above, were termed *instructions*. The term *instruction* meant certain proceedings and formalities in use in order to put a cause in a condition to be decided. It also meant the proceedings from the

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summons till the *appointement*; and, lastly, it meant certain proceedings between the *appointement* and the definitive judgment.

Of the above *instructions*, the compiler will only detail those relating to the *enquête* or witnesses and the *appointements*: for an explanation of the others, he refers to chap. 3, part 1, of Pothier's *Procédure Civile*.

With respect to the evidence of witnesses, eight rules are given by Pothier, in the same chapter, touching what they were admitted to prove, and what not. When the witnesses did not live in the place where the judge's order for the *enquête* was made, another judge might be commissioned to take their evidence. When the witnesses appeared to the summons, the judge heard each witness separately, and not in the presence of the others, but only in the presence of the judge's registrar, who had to take down the depositions. The judge administered an oath to each witness. At the heading of the deposition of each witness, his christian name, surname, age, quality or calling, his abode, the mention of the oath having been administered to him, and whether he was a servant or a relation of either of the parties, and if a relation, in what degree, were all set down. Attached to the depositions of the witnesses was a *procès-verbal* drawn up by the registrar, containing the particulars of the deposing of the witnesses, &c. The deposition of one witness was not sufficient to prove the fact contested: the deposition of two irreproachable witnesses was sufficient. Women might be witnesses as well as men, as also persons who had taken the vows, persons under age, and persons of infamous character (though their evidence was likely to be set aside). Relations within certain degrees could not depose either for or against parties. Servants were admitted at times to depose in favour of or against their masters. Objections on various grounds might be made to the evidence of witnesses.

An *appointement en droit* was an interlocutory decree, whereby the judge, not having sufficient information on the subject-matter of the cause to decide it *à l'audience* (at the hearing), ordered the parties to produce their documents, and to give summarily, in writing, their grounds (*moyens en droit*) of action.

An *appointement à mettre* was an interlocutory decree, ordering the parties to put their documents into the hands of one of the judges who had been present *à l'audience*, and to state summarily their grounds of action as deduced from them.

An *appointement de délibéré* was an interlocutory decree, whereby when the matter could not be easily decided *à l'audience*, but merited nevertheless an *appointement à mettre* or *en droit*, it was ordered that the documents of the parties should be put into the hands of one of the judges to report on them, and they were afterwards deliberated on. In execution of this decree, the papers, &c. were put into the hands of this judge (who was called *rapporteur*) on going out of court. The judge made his report to the court, and thereupon judgment was given. Another kind of *délibéré* was when the judge had the court cleared, and deliberated on a matter; the audience afterwards came in again, and judgment was given.

4.—*Of the Abatement, Revival and Extinction of Suits.*

A suit abated (*fut interrompue*) by the death of a party; also by the change of *status*, as the marriage of a female, &c. It revived by the succession to the rights of the person who died or changed her or his *status*. A suit also abated by the death of an attorney or of the *rapporteur*, but revived by the appointment

of another attorney or of another *rapporteur*. Suits were extinguished by discontinuance for three years from the last proceeding; but another suit could be brought for the same subject. Instances are given by Pothier of suits being extinguished (*périmées*) from other causes. In cases of extinction of suits, each party paid his own costs. The term used for the abatement of a suit is *interruption d'instance;* that for its revival, *reprise d'instance;* and that for its extinction, *péremption d'instance.*

5.—*Of the Manner of proceeding to Judgment.*

After the *plaidoirie* was ended, if the cause was *à l'audience*,—or after the *rapporteur's* report, and the view of the papers, &c., if it was one *de rapport*,—the president gathered the votes of the judges. If among the judges there was a father and son, or an uncle and nephew, or two brothers, &c., the two votes were only counted as one. If the votes were equal, no judgment could be given, but it was sent to another chamber or court, or some judges were sent for from another court to add their votes to the others; not, however, till they had heard a report of the matter. A majority of one vote appears to have been sufficient. If judgment was given in an *appointement en droit*, the reporter drew up the sentence (*dictum*) and gave it to the registrar, together with the bags of the *procès*. The *dictum* was written by the reporter, and contained the date of the day when judgment was given. From the *dictum* the registrar made out minutes of the judgment (which was to be dated on the day it was delivered and signed by all the judges); the minutes were signed by the president and the reporter.

The 4th Part of Pothier's *Procédure Civile* is taken up with the details of the proceedings in the execution of judgments. These include the taxing of the costs of suit, the payment of the costs and damages (*dommages et intérêts*) and of the profits of the property, which the condemned party had to restore. It also treats of the formalities attending executions on the moveable property, and on the profits of the immoveable property, of the defendant.—See *supra*, "*Criées*," and *infra*, "*Saisies*."

The 5th part of Pothier's above-mentioned work treats of the arrest and imprisonment of the party condemned, the *bénefice de cession*, the fixing of the official seals on his property, &c. This arrest, &c. could not take place till four months after notice of the definitive judgment, if the sum exceeded 200 *livres*. He might be arrested for the costs of suit, if they amounted to that sum. He might also be arrested before the expiration of the four months, for fraud, &c. Exceptions were made (as to arrest) in favour of certain persons. The creditor had to pay a certain sum for the prisoner's diet during his imprisonment. The imprisonment did not have the effect of preventing the sale of the prisoner's property. The prisoner, by surrendering up his property, might obtain his release from prison, and might avoid imprisonment by a previous surrender. This benefit was called the *bénéfice de cession*. Delays were sometimes allowed the condemned parties to pay their debts, &c.; these were called *répits*, and were granted by letters out of the chancery.

The rest of the 5th part treats chiefly of the means of annulling (*moyens de nullité*) certain documents produced by the plaintiff, either by proving fraud, forgery, &c. This accusation of forgery was termed *le faux incident:* the act of declaration of this charge was called the *inscription de faux*.—This part also treats of *lettres de rescision*, for rescinding acts.

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Procedure (Civil).

6.—*Of Appeals.*

There were various ways of seeking a remedy against the decision of a judge; these were by appeal, opposition, *requête civile*, *cassation*, and *prise à partie*.

An appeal was a recourse from the decision of an inferior to a superior judge. Appeals were of two kinds, simple and qualified; by the first kind, the party imputed error to the judge; by the second, he either imputed incompetency to the judge (which was called an *appel comme de juge incompétent*), or an abuse of his authority (which was termed an *appel comme d'abus*): this latter *appel* applied to cases wherein the ecclesiastical judge encroached on the authority of the secular judge. Appeals (*appels*) might be brought against all the decisions of the inferior judges, whether the same were rendered by default or in contested cases (*contradictoires*), and also against interlocutory sentences. The exceptions to the rule will be found enumerated in the 3rd Part of Pothier's *Procédure Civile*. Appeals were to be brought within ten years; they might be brought not only by the parties condemned, but also by third persons who were not parties to the suit. Appeals were made by a mere notice from the attorney of one party to the attorney of the other.

Opposition was a manner of seeking remedy against the decision of a judge, by bringing the matter before the same judge. This course might also be adopted by a third person who was not a party to the suit; in the former case it was called *opposition simple;* and in the latter, *tierce opposition*. The *opposition simple* was that which was made against a judgment by default.

A *requête civile* was another method of seeking a remedy against a judge's decision in the last resort, by bringing the matter before the same judge. This remedy was extraordinary, and could only be used in the cases provided by the ordinance. It could be used both in respect of contested cases and in those wherein judgment passed by default.

Cassation was a method of annulling a judgment in the last resort by having recourse to the king to quash it. It usually occurred in cases of formal contraventions of the *coutumes*, ordinances, &c.

A *prise à partie* was a remedy against the person of the judge for fraud, exactions, &c. The same remedy might be used against a king's attorney or a procurator fiscal. This kind of appeal was to be brought before the superior court to whose jurisdiction the judge was subject. It may be added, that the general denomination of an appellant was *l'intimé*.

See *ante*, pp. 121—126, and *supra*, "COURTS OF LAW" and "JURISDICTION."

II. *Criminal Procedure.*

This procedure is divided by Pothier into seven sections, as follows:

1. By whom, at whose expense, against whom, and before what judge, criminal actions were brought.

2. In what form actions were brought, and of the *procédures* which preceded the *décret* given by the judge against the accused.

3. Of the various decrees or sentences given by the judge, their execution, and proceedings against contumacious persons.

4. Of the *instruction* which followed the decree till the definitive judgment; the various *requêtes* of the parties; and the definitive *conclusions* of the king's attorney.

5. Of definitive judgments, of their execution, and of appeal.

6. Of the proceedings (*procédures*) peculiar to certain judges, to certain accused persons, and to certain crimes.

7. Of the extinction, *abolition* and pardon of crimes, and of clearing the reputation of a deceased person.

Section 1.—*By whom, at whose Expense, against whom, and before what Judge, Criminal Actions were brought and prosecuted.*

Such actions might be brought both by an injured party and also by the public prosecutor (*partie publique*), that is, by the attornies-general and their substitutes in the royal jurisdictions, and by the procurators fiscal in the seigneurial jurisdictions. The injured party could only claim a civil reparation, which consisted in a sum of money that was awarded by the judge, by way of recompense for the injury; such party was termed the *partie civile*. But the *ministère public* or *partie publique* prosecuted such actions for the good of the public generally. The *partie civile* might come in (*intervenir*) when the action was brought by the *partie publique;* and again, the *partie publique* might come in, in actions brought by the *partie civile*, and become a joint accuser.

When an action was prosecuted by a private person, the accused was condemned to pay costs to such person. But if the action was brought by the public prosecutor, it was at the expense of the king or the *seigneur* (as the case might be); but the condemned person was fined by the judge in a sum sufficient to indemnify the king or the *seigneur*.

Criminal actions could only be brought against the criminals themselves or their accomplices; for crimes were generally extinguished by the death of the criminal before conviction.

There were certain crimes, actions for which might be brought against the memory (*contre la mémoire*) of an accused person after his death; these were, relapse or heresy, high treason, open opposition to justice wherein the accused was killed, duels and suicide.

Criminal prosecutions might be instituted against foreigners as well as natives, against persons who were civilly dead, persons under the power of another, minors, and also against persons under the age of puberty in certain cases; but not against mere children, nor lunatics.

Of common right, the cognizance of criminal actions belonged to the judge of the place where the crime was committed. If a crime was planned in one place, but executed and completed in another place, the latter place was treated as the *locus delicti*, on the principle that it was the completion or execution of the act that formed the crime (*délit*). Some curious distinctions or rather refinements on this head will be found in Pothier's *Procédure Criminelle*, Sect. 1, Art. 2, noticed *ante*, p. 170.

Exceptions to this rule took place, first in respect of the *cas royaux*, or cases reserved to the bailiffs or seneschals (see *ante*, p. 203), the principal of which were heresy, blasphemy, magic, sacrilege, treason in its various bearings, coining false money, sedition, abduction, armed meetings, &c.; secondly, in respect of crimes committed by noblemen and others, whose crimes were cognizable only by certain tribunals (see *supra*, "NOBILITY" and "PARLIAMENTS"); thirdly, in respect of the right belonging to certain judges of taking cognizance of certain *cas;* and fourthly, of the *cas prévôtaux* (see *ante*, p. 204).

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Procedure (Criminal).

Section 2.—*The Criminal Process preceding the Décret.*

Criminal actions began generally by a plaint made to the judge by the injured person, or by the public prosecutor, who was either the king's attorney or his substitute, or the procurator fiscal of a *seigneur*, as before mentioned. In cases of flagrant delict, the judge might *ex officio* be the informant, before any plaint was made; and then the king's attorney or the procurator fiscal (as the case might be), on having communication of such information, made the plaint *ex officio*. Plaints made by these officers, when no *partie civile* intervened, were often preceded by denunciations, and sometimes were without them.

The plaint is defined by Pothier to be an act whereby an injured party, or the public prosecutor, exposed to the judge the crime which had been committed, and demanded to be allowed to give his evidence of the fact and to obtain redress for the same.

A denunciation (*dénonciation*) is defined by Pothier to be an act whereby an individual gave notice to the public prosecutor of a crime that had been committed. This latter act made the party denouncing liable to pay costs, damages, &c. in case of failure of proof, and even to a greater penalty in case of a malicious intention being proved. It would seem that any person might have been a *dénonciateur*.

Plaints were made either by *requête* or petition presented to the judge, wherein he exposed the facts and circumstances of the case, and demanded permission to produce his evidence (*en informer*) in support of the accusation, or by a *procès-verbal*, or statement written by a registrar in the presence of the judge, which contained the recital of the crime as made by the complainant, and whereby the judge gave a certificate (*acte*) to the complainant of his plaint, and gave him permission to produce his witnesses.

When the plaint was made to the judge, he wrote at the foot of it his warrant authorizing the complainant to produce his evidence (*en informer*); and, at the same time directed other things to be performed, as that the body (in the case of a murder) should be examined by the proper official persons; that the wounded person (in a case of wounding) should be visited by the proper medical authorities, or that he (the judge) should visit the spot where the robbery was committed, in order to make an official statement (*procès-verbal*) of the injury done, &c.

By virtue of this warrant the witnesses were summoned to give their evidence, and the judge heard them: the papers (*acte*) containing their evidences were called *information*.

The judge afterwards issued out another warrant, ordering that communication of the facts, &c. should be made to the king's attoney, or to the procurator fiscal of the *seigneurs*, as the case might be. This officer, after communication of the *information* and the other proceedings (if any), gave in writing his *conclusions* (requisitions) for such a *décret* as he thought proper, against the persons who appeared to him to be charged by the evidence (*information*).

In criminal prosecutions, it was necessary to prove two things:—first, that the crime in question had been committed, this was called the *corpus delicti*; secondly, who were the perpetrators of it, and the accomplices (if any).

In cases of murder, or of a person being wounded, the *corpus delicti* was

proved by the judge's *procès-verbal* of the state of the wounded person or of the body, and also by the reports and certificates of the physicians and surgeons. The judge therefore went to the place where the wounded person or the dead body lay, accompanied by the king's attorney and his registrar. The presence of the king's attorney does not appear to have been always required.

The *procès-verbal* or statement made by the judge in the case of a person being wounded, contained a description of the place, and the state in which he was found, the declaration made by such person, and mention of the oath administered to him by the judge. In cases of murder, the *procès-verbal* contained a description of the place where the body was found, a statement of the condition of the body, and of its recognition by persons on the spot, to whom an oath had been previously administered for that purpose, together with a notice of the warrant authorizing the opening of the body.

The process of proving the *corpus delicti* by the judge's *procès-verbal* took place in other cases. These statements were drawn up by the registrar in the presence of the judge, &c.

In addition to the judge's *procès-verbal*, there were also the reports of the physicians and surgeons. These reports were of two kinds; the first kind was called *dénonciatif*, and was made without any authority of the judge, but merely at the desire of the wounded person or his friends, &c.; and the other kind was a formal act ordered by the judge, when there was no such report made as that above mentioned.

These reports ought to contain a description of the wounds of the wounded person, by what kind of instrument he was wounded, according to the opinion of the reporters, the state of danger in which the person was, and the time that would elapse before he was healed.

In the case of a dead body, the report was to contain an account of the opening of the body, a description of the wounds that were found on the body, the instrument by which they supposed the wounds to have been inflicted, and whether the wounds were the cause of his death.

By a royal edict dated in 1692, *médecins du roi* and sworn surgeons were appointed in all cities. In other places ordinary surgeons were sufficient for the purpose.

Besides the judge's *procès-verbal* and the reports of the physicians, &c., there were certain letters called monitories (*monitoires*), which were published at the *prônes* (Sunday sermons) of the parish, whereby the official of the diocese warned the parishioners to reveal what they might know of the authors and accomplices of the crime mentioned in such monitories, menacing at the same time with excommunication those who refused to come forward and make such disclosure (*révelation*).

These monitories were ordered by the judge, at the request of the proper parties applying for the same. The officials were compelled to issue them, and the vicars, &c. to publish them, and to send them sealed up to the registry office of the jurisdiction where the process was pending. It was expressly forbidden to name any person as either guilty or suspected of the crime. Opposition might be made at times to the publication of monitories.

With respect to the examination of the witnesses, nearly all persons might be examined, including the relations of the parties and their servants, foreigners,

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persons who had taken the vows, and even persons of infamous character. They were to be cited before the judge who had authorized the taking of the evidence. Where the witnesses lived at a distance, the judge had the power of appointing another to examine them instead of himself. If a witness did not appear at the time appointed for him, he was liable to a fine. Wives could not be forced to give evidence against their husbands, nor children against their parents, sons-in-law against their fathers-in-law, &c., and *vice versâ*. A confessor could not be compelled to depose to what he knew by confession.

The witnesses were generally examined by the judge at his house. If a witness was ill in bed, the judge went to the house where he was. If the witness was a nun, he went to the nunnery, &c.; if a peer of the blood, or a governor of a province, &c., the judge went to his house.

The witnesses were to be examined separately, and privately; that is, the judge and his registrar only were to be present.

The judge had to administer an oath to the witness that he would depose nothing but the truth, and to ask his christian name, surname, age, quality and abode; whether he was a relation of the parties and in what degree, or a servant of either of them. After which he read over to him the plaint, and heard what the witness had to depose touching the facts stated in the plaint; and he then had to see that the witness gave an explanation of all the circumstances of place, time and the manner of the occurrence, &c. If the witness did not understand French, an interpreter was employed. When the witness had given his evidence, the judge had it all carefully written down by the registrar in his presence. When the registrar had written down the evidence, it was to be read over to the deponent, in order to ascertain whether he persisted in his evidence, and whether it had been properly understood, &c., and the true meaning of it given. The judge and the registrar signed the deposition, and the witness also, if he could write, and if not, the registrar had to make a note that the witness could not write. The judge taxed the expenses, &c. of the witness. Every page of the document containing a witness's evidence had to be indorsed by the judge, and signed by him; the document was to be dated, and was to mention the name of the judge by whom the evidence was heard. In respect of other formalities regarding the deposition of a witness, the *acte* had to state his christian and surname, his age, calling, &c. his place of abode, and his declaration whether he was or was not a relation, or a servant, or domestic (*serviteur*) of the parties, &c.; and in what degree, if a relation; the fact of the writ of summons having been shown to the witness before he gave his evidence; mention was also to be made of the oath being administered to him. No interlining was allowed, and all erasures, &c. were to be carefully noted, and the references (*renvois*) signed by the witness and the judge. Mention was also at times made whether the witness was or was not acquainted with the parties; but it was not necessary. Depositions wanting the above formalities might be nullified, but the evidence might be taken again. The registrar was forbidden to communicate the evidence and the other papers (*pièces secrètes*) of the proceedings to any one, except the king's attorney or the procurator-fiscal (of the *seigneurs*), and the *juge rapporteur*.

Section 3.—*Of the different Kinds of Décrets, of their Execution and the Proceedings against contumacious Persons, and of Essoins.*

A *décret* was an order by the judge, whereby the accused party was cited to answer the charge brought against him. *Décrets* were of three kinds, namely:—1. The *décret de prise de corps*—a warrant ordering the accused to be arrested and imprisoned; 2. The *décret d'ajournement personnel*—a writ for summoning the accused to appear in person, in order to be examined (*interrogé*) on the facts of the evidence (*information*); 3. The *décret d'assigné pour être ouï*—a writ ordering the party to be summoned, in order to be heard on the facts contained in the evidence (*information*).

The *décrets* of *ajournement personnel* and of *prise de corps* were distinguished into original *décrets* and *décrets de conversion*. An original *décret* was the first *décret* made or issued against an accused party. If a *décret d'ajournement personnel* was issued against a person in consequence of his having disobeyed the first *décret de soit ouï*, which had been issued against him; or if a *décret de prise de corps* had been issued, in consequence of his having disobeyed the first *décret d'ajournement personnel*;—in either of these cases the *décret* was termed a *décret de conversion*.

Regard was to be had to the nature of the crime, the evidence given, and the quality of the accused, in order to ascertain what kind of *décret* was to be made. The *Ordonnance Criminelle* of 1670 forbade the issuing of a *décret de prise de corps* against domiciled persons, except in cases which incurred a corporal or degrading punishment.

Duellists might be arrested and imprisoned on the mere notoriety of the fact, without any evidence being produced (that is, the *information*). Vagabonds might also be arrested and imprisoned on the plaint of the king's attorney, also without the like evidence; and domestics might be arrested and imprisoned on the plaint of the master, also without such evidence being produced. Personal arrest and imprisonment might also be decreed on the mere *procès-verbal* of a president or counsellor in a sovereign court. When the charge or crime was of a heavy nature, and the *commencement de preuve* considerable, the *décret de prise de corps* might be issued against the accused, whatever might be his rank. Further details on this subject will be found in articles 1 and 2, section 3, of Pothier's *Procédure Criminelle*.

The *décrets* were issued by the judge who was charged with the *instruction* of the cause; and they could be issued by him, without his being obliged to take the advice of the court on the subject; but he had to communicate *les pièces* to the king's attorney or to the procurator fiscal, who thereupon gave his *conclusions* (requisitions), whereby he required to be done what he thought proper, and then the judge issued his *décret*. The judge was nevertheless at liberty to issue such decree as he thought proper, notwithstanding the *conclusions* of the above-named officers.

With regard to the execution of the warrant of arrest and imprisonment, the *huissier*, who was charged with this office, might arrest the party either by night or by day, and in his own house, in the public places, and even in a church. He was then to take him to a prison, to enter the caption in the prison register, mentioning the *décret* authorizing the same. This act was called a scroll (*écroue*).

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He had to make out a *procès-verbal* of the caption, and to give a copy of it to the prisoner, and also a copy of the scroll. He also at the same time made an inventory of the clothes and other property found on the prisoner, and entered it on another register kept in the prison. If the *décret* could not be executed on the accused party, the same *huissier* made a search for him (*perquisition*), either at his residence, if he had a domicile, or at a residence in the place where the process was *instruit*, or within the jurisdiction. The *huissier* drew up a *procès-verbal* of this search, and left a copy of it at the place where it was made. If the accused party had neither a residence, nor was domiciled in the place, nor within the extent of the jurisdiction, the *décret* for arrest and imprisonment was executed by fixing a copy of the *décret* on the door of the *auditoire* or court of justice.

Besides this ceremony, it was necessary to summon the party to appear in a fortnight (some additional days being allowed according to distance), and much the same formalities were required as with regard to the *perquisition*.

In the meantime, in order to compel the accused to surrender himself, his goods or moveable property were seized, and also the profits of his immoveables. But at times, instead of seizing on the moveable property, a requisition was made to the judge to put the official seals on the door of his house, and the judge thereupon went to the house and put on the seals accordingly. This took place principally when there was reason to believe that there might be found among the papers of the accused things which would serve to convict him. The seizure could take place only when the accused party had absconded. The same formalities appear to have been used, in respect of the seizure of a criminal defendant's moveables and the profits of his immoveables, as were in use with regard to the like seizures in the case of a defendant in a civil cause.

If the accused person was not arrested, or did not surrender after the *perquisition*, and the consequent summons to appear within the fortnight, &c., he was to be required by the public crier to appear within a week.

The day of the assignation (of the fortnight) was not comprised in the delay allowed, nor was the day in which the delay expired counted; so that if the assignation was appointed on the 1st of June, the time would only expire on the 17th, thus leaving a clear fortnight, independently of the two extra days. This proclamation was made in three distinct places, namely, the public place of the locality of the jurisdiction, at the gate or door of the court of justice (*auditoire*), and opposite the delinquent's abode, if he had any. The *huissier* was accompanied by a trumpeter to each of the three places. After the trumpeter had sounded his trumpet, the *huissier* called on the accused with a loud voice, and summoned him to surrender himself a prisoner within a week (*huitaine*), &c.

Essoins were the reasons whereby a defendant excused himself for not appearing at the time appointed by a *décret*, of whatever nature the *décret* might be. These reasons were embodied in an act, which was exhibited by an attorney who had a special procuration to demand in the name of the accused permission to be *essoined*, that is to say, excused from appearing as he ought to do. The chief causes of *essoins* were illness, the badness of the roads, pestilence, inundations, war, &c. To this procuration was to be added, in cases of illness, the certificate of a medical man, in corroboration of the facts stated in the procuration, and the certificate had to be confirmed by oath.

Section 4.—*Of the Instruction after the Décret; of the various Requêtes which might be ordered during the Instruction; and of the definitive Conclusions.*

The first proceeding after the execution of the *décret* was the interrogatory of the accused, when he appeared by virtue of the summons "to be heard," or had been imprisoned by virtue of a *décret* of arrest, &c. The interrogatory had to be communicated, together with the other acts, to the king's attorney or to the procurator fiscal of the *seigneurs* (as the case might be), and to the *partie civile* (see *ante*, p. 343). After this step, and on the *conclusions* of the king's attorney or of the procurator fiscal, the *règlement à l'extraordinaire* was made, whereby it was ordered that the witnesses should be *récollés en leurs dépositions* and *confrontés avec l'accusé*, that is, that they should have their evidence read over to them for the purpose of confirming or amending the same, and should also be confronted with the accused party.

When the accused did not appear after the assignation of the fortnight, or after the subsequent week, during which he might have appeared, a *règlement* was made on the *conclusions* of the above-mentioned officers, whereby default was decreed, and it was ordered that the witnesses should be *récollés*, and that the *récollement* should be equivalent to confronting the witnesses with the accused party.

In trifling causes this latter *règlement* occurred; but in graver matters, after the assignations of the fortnight and week, as above mentioned, the cause was brought at once into court, and there definitively decided.

The interrogatory was an act containing the examination of the accused person by the judge, and the answers to the questions put to him. This examination took place on a *décret de soit ouï*, or on a *décret d'ajournement personnel*, on the day and at the hour appointed; but in case of a personal arrest, &c., then it was necessary that he should be interrogated within twenty-four hours.

It was the judge's duty to interrogate the prisoner himself, and he was forbidden, under a heavy penalty, to allow the registrar to interrogate.

The examination (*interrogatoires*) and the *récollements* and *confrontations* could not take place in the judge's house.

The examination of the accused (like the depositions of the witnesses) was *au secret*, that is, it took place in the presence only of the judge and the registrar, who wrote down the examination. If there were several accused persons, they were examined separately, and not in the presence of one another. The judge administered an oath to the accused, that he would tell the truth, before he proceeded to interrogate him. He then questioned him as to his christian name, surname, age, calling and abode, and afterwards as to the facts of the accusation; and he dictated to the registrar every interrogatory put to the accused, together with his answer to the same. In putting such questions, the judge could avail himself of the memoranda or *mémoires* furnished to him for that purpose.

If the accused refused to answer, the judge summoned him verbally three several times to give an answer; and on his persisting in his refusal, he then declared to him that he would be proceeded against as a voluntary dumb person, &c. If he refused to take the oath, he was also to be summoned three times, and mention was to be made of such refusal.

When the interrogatory was ended, the judge read it over to the accused, signed it, and caused the accused to sign it. If there were several accused

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parties, the examination of each individual was to be written in a separate paper (*cahier*).

The accused might on the first interrogatory put in a plea to the jurisdiction, and demand to be tried by another judge, whom he averred to be his proper judge. The accused was in such a case to appear personally to make his plea.

With regard to the *récollement*, or reading over their evidence to the witnesses, &c., and the confronting of the witnesses with the accused, and also with each other (when required), the particulars of the formalities used on such occasions will be found set forth in articles 3 & 4 of the fourth section of Pothier's *Procédure Criminelle.*

During the progress of the cause, petitions might be presented both by the accuser and the accused. If the accuser was injured in his person, or in that of his wife or children, he might present a petition (*requête*) to the judge requiring a certain sum to be paid by the prisoner for the alimony and medical treatment of the complainant, and the judge granted relief accordingly.

The accused might also in certain cases petition to be set at liberty, &c., and the judge could thereupon order him to be liberated.

Other petitions might be presented by the accuser and the accused party, the particulars of which it is not necessary to enumerate here.

When the *instruction* of the *procès* was ended, and the witnesses *récollés* and confronted, &c., the registrar remitted the cause (*procès*) to the king's attorney or to the procurator fiscal, in order that he might have (*prendre*) communication of it, and give in his *conclusions* (requisitions). In those jurisdictions where there were king's advocates, the king's attorney had to report the process to the *parquet*, and to take their advice, in order to give in his *conclusions*, which were to be in writing. The king's attorney or the procurator fiscal made his *conclusions* either for the condemnation of the accused or for his acquittal, or for fuller information (*à un plus amplement informé*), or for the *question préparatoire* (torture), or for some other interlocutory judgment. These *conclusions* had to be given, without any reasons being assigned for them (*motivées*).

The accused party was not allowed legal advice, until he had undergone the first interrogatory. In capital offences, he was not allowed to have any legal advice at all. Pothier admits that the French procedure in this respect was more rigorous than that of the other countries of Europe. In cases of peculation, &c., and in lighter offences, that is, in those which were not capital, the prisoner might have legal advice. He was also debarred, in grave offences, from having communication of the charges made against him, except the reading of them at the time of the confronting of the witnesses.

Section 5.—*Of Judgments, Appeals, and the Execution of Judgments.*

When the process had received its full *instruction* (*a reçu son entière instruction*), and the king's attorney or the procurator fiscal, after having had communication of it, had returned it to the registrar with his *conclusions* sealed up, the process was then to be handed over to one of the judges (called *rapporteur*), who made his report of the cause to the assembled court.

In those courts where there was only one judge, it was requisite to call in two graduates in the law, when there were *conclusions* for a corporal punishment, &c., to assist him in the examination of the accused before judgment given, and also in passing sentence. If judgment was given in the last resort,

seven judges were required to pronounce it; and if that number of judges could not be found in the court, the deficiency was to be supplied by graduates. The judges being assembled, inspected (*voyaient*) the papers, &c. of the *procès*. If any objection had been made to the witnesses at the time of confronting them, it was necessary, before reading the deposition and the *récollement* of the witness objected to, to decide on the objection: the president took the votes of the judges, and if the majority were of opinion that the objection was of no weight and inadmissible, they took no notice of it, and the deposition was then read, as well as the *récollement* of the witness who was objected to. If, however, the majority of the judges allowed the objection, then the deposition and the *récollement* of such a witness were not read. If the objection was admissible, but wanted evidence to justify it, which the accused offered to produce, the reading of the deposition and of the *récollement* of the witness objected to was deferred, and they proceeded to read the other *actes* of the *procès*; and if it appeared that there was not sufficient evidence to convict the accused, and that the deposition of the witness objected to was of importance, an interlocutory judgment was given, to admit the proof alluded to.

After the judges had inspected the proceedings, before proceeding to pass sentence, the *conclusions* were read, and the accused was brought forward to be questioned. If the *conclusions* were for a corporal punishment, the accused sat on a low stool, called *sellette*, to be interrogated. In other cases the accused stood up behind the bar, with his head uncovered.

The president put the questions to the accused, and afterwards asked the other judges if they had any questions to put to him; if they had, such questions were put by the president, and he alone signed the interrogatory. This latter interrogation of the accused was for the purpose of his justification, &c.; whereas those which took place during the course of the *instruction* were for the purpose of drawing the truth from him, &c.

After the *visitation* of the *procès*, and when the accused had been heard, the court proceeded to pass sentence. If the judgment could be appealed from, a majority of one voice for the most rigorous punishment was sufficient; but if it was in the last resort, then the majority for the most rigorous punishment must be of two voices, otherwise the mildest punishment would be awarded. [The terms "the most rigorous" and "the mildest" are applied only to the expressed opinions of the judges.] When the votes were equal, or in the case last mentioned, the mildest opinion prevailed.

When the opinions of the judges had been taken, the registrar wrote down the judgment from the dictation of the *rapporteur*, and all the judges who had taken a part in the *procès* had to sign it.

The judgment had to be read (*prononcé*), shortly after the passing of it, to the prisoner; this was done in prison, the judge going there and sending for the prisoner for that purpose.

The sentence had to be communicated to the king's attorney or to the procurator fiscal, in order that he might appeal from it, if he thought proper. If the punishment awarded was not, in the opinion of the king's attorney or the procurator fiscal, proportioned to the magnitude of the offence, he could appeal against the sentence, in order to have a severer punishment awarded: this appeal was called an *appel à minimâ*. Sentence of death was generally to be

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Procedure (Criminal).

carried into execution within twenty-four hours, and at the usual place of execution; and the judge had to be present at the execution.

There were interlocutory decrees made during the *instruction*, &c., ordering that certain things should be proved or verified before proceeding to pronounce on the *fond* of the matter: appeals could not generally be brought against them. The principal of these interlocutory decrees were,—that which admitted the prisoner to prove his justification or his innocence; that of the *question préparatoire*; and that of *plus amplement informé*. This proof was only allowed after the *instruction* had been wholly completed and the *visite* of the *procès*. The *question préparatoire* (also called *purgative*) was the torture to which a prisoner might be put, in the course of the trial. The *question* was either ordinary or extraordinary; the ordinary consisted in making the victim swallow a certain number of measures of water; and the extraordinary was a redoubling of the previous torture. There were other kinds of torture used, as the *brodequins* or boots, &c. The *question préparatoire* or *purgative* was usually applied only in offences that deserved death, and when it was manifest that a crime had been committed by some person unknown, and there was a considerable degree of suspicion against the prisoner. This abominable expedient was then adopted for the purpose of extorting confession. See the particulars of an examination while under this torture, in the 4th volume of Jousse's Treatise on Criminal Justice, and in Denisart's *Décisions*, article "*Question*," *ante*, pp. 130 and 120.

Torture might also form part of the definitive sentence or judgment, in which case it was called the *question préalable*.

With respect to the kind of interlocutory decree thirdly above mentioned, it was made when there was not sufficient proof to convict the accused, and when the nature of the crime would not allow torture to be inflicted; the judge then issued this decree for the purpose of getting further information on the subject. The accused party might be either set at liberty or kept in prison during this state of suspense, which might last even a year.

There were two kinds of definitive sentences of acquittal, namely, that which put the parties out of court, and that which discharged the accused from the accusation.

The first kind was when the innocence of the accused was not fully borne out, and the accusation, although not fully proved, had nevertheless some foundation to rest on. In this case the complainant was not condemned in costs and damages.

The other kind of acquittal generally carried costs and damages, except when the action was brought by the public prosecutor.

Appeals might be brought from the decisions of the judges who did not decide in the last resort, not only from the definitive sentences but from the interlocutory sentences and decrees of *simple instruction*, with this exception, that appeals from decrees and sentences of *instruction* could not have the effect of suspending them.

Certain judgments, as those that condemned to death, or to corporal punishments, banishment, &c., had to be confirmed by the court within whose jurisdiction the judge was who had given sentence. Decrees ordering torture had also to be confirmed.

In cases of appeal from a condemnation to a corporal punishment, or to the torture, the engrossment of the *actes* of the *procès* was sealed up in a bag, and had to

be sent to the court, together with the accused in person. The president then handed over the *procès* to the *rapporteur* and to the attorney-general, who gave it to one of his substitutes; and on the report of the substitute, he gave his *conclusions* if necessary: when the attorney-general had given his *conclusions*, the *procès* was remitted to the reporter, who then made his report to the court. Certain definitive sentences, which merely inflicted a fine of a certain amount, and also certain decrees, could be executed notwithstanding an appeal. In respect of contumacy, the sentence of death pronounced against a contumacious person was executed in effigy,—that is, a picture was hung up, representing the criminal and the kind of punishment to which he was condemned, and the sentence was inscribed at the bottom; some other judgments were carried into execution by hanging up a *tableau* on which the sentence was inscribed, but without any effigy; and again, other sentences were carried into execution by a mere notice of the judgment being left at the criminal's abode, &c.

Sentences against contumacious persons might, unless an appeal *à minimâ* was made by the public prosecutor, be carried into immediate execution. See further on this subject, Art. 5, Sect. 5, of Pothier's *Procédure Criminelle.*

Section 6.—*Of the Proceedings which were peculiar to certain Judges, to certain accused Persons, and to certain Crimes.*

The peculiar kinds of process enumerated under this heading relate to trials before the *prévôt des maréchaux;* to the trials of persons that were deaf and dumb, and of those who refused to answer to interrogatories, &c.; to proceedings against corporate bodies, &c., or against dead bodies, or against the memory of deceased persons (for suicide, high treason, relapses, duelling, &c.); and, lastly, to the proceedings in cases of duel and forgery.

Section 7.—*Of the Extinction and Prescription of Crimes; of their Abolition and Pardon; of reviewing Causes; and of the manner of clearing the Reputation of a deceased Person.*

Crimes were extinguished by the death of the criminal party, whether he died before or after the accusation was formally brought against him. If the criminal died after condemnation in a cause that had been defended, or during an appeal, or after condemnation for contumacy, within five years after execution decreed, the crime was extinguished.

Prescription as to crimes took effect in twenty years from the day that they were committed, or in thirty if the sentence had been executed in effigy, &c.; the crime of duelling was excepted from this prescription.

In addition to extinction of crimes by operation of law and prescription, they might also be *abolis*, remitted or pardoned by the king's *lettres de grace*, which were of three kinds,—namely, letters of *abolition*, letters of remission, and letters of pardon. The king could not, however, grant letters of *abolition* for the crimes of duelling, assassination, abduction (*rapt*), and outrages on magistrates, &c.

Causes might be reviewed, not only at the request of the condemned party, but also at the request of his widow, his children, and, in default of them, of his collateral relations.

Proceedings to clear the reputation of a deceased person might be instituted by the widow, the children, and also by the collateral relations of the deceased.

See *ante*, pp. 121—131, and *supra*, "COURTS OF LAW," and "JURISDICTION."

TREATISES.

Property (Biens).

The word *biens* signified all kinds of property, that is, lands, venal offices, goods, &c. *Biens* were divided into two kinds,—namely, *biens meubles* (moveable property, moveables, goods or personal estate), and *biens immeubles* (immoveable property, immoveables or real estate). They were also divided into things corporeal and things incorporeal, and were likewise called respectively *choses mobiliaires* and *choses immobiliaires*. Another division of *biens* was into *fiefs*, *censives* and *francs-aleus*.—See *supra*, those several headings.

Moveable property was that which could be moved from one place to another without detriment, &c., as money, gold and silver, wood, corn, grass when cut, &c.

Immoveable property consisted in things which were fixed and had a certain locality, and could not be transported from one place to another, as lands, houses, &c. Saleable offices and annuities were also considered as immoveable property. Immoveable property was divided into real (*véritables*) immoveables and fictitious immoveables (*par fiction* or *fictifs*).

The former kind is sufficiently explained in the foregoing description of immoveable property; and as to the latter, it may be remarked, that all moveables, when attached to immoveable property, became immoveables; they might also become immoveables by express stipulation in marriage contracts; they might likewise become immoveables when they represented (as it were) immoveable property, as the materials of a house that was pulled down; and, lastly, when by particular *coutumes* they were allowed to be considered as such. On the contrary, immoveable property might become moveable by marriage contract, and also by the *coutume*.

In addition to the above two kinds of property, there was another kind, which, though it was in its nature neither moveable nor immoveable, was considered by the *coutume* as immoveable property, as windmills, boats, produce or fruits not gathered in (*fruits pendans par la racine, après la mi-mai, et avant le pied coupé*). These were called *catels* (chattels). The term *catel* was also applied to the heriot or the best moveable, which was taken by the *seigneur* on the death of his tenant.

It may be useful to explain here two terms which are constantly met with in authors, when treating of the subject of property,—namely, the *titre onéreux* and the *titre lucratif*. The former signified a title whereby property was acquired either by paying the value of it in money or other equivalent, or taking it subject to certain conditions or charges. Under the first heading were comprised purchases and exchanges; and under the second, a jointure or settlement (*dot*). A *titre lucratif* was that whereby property was acquired without purchase or its equivalent, and without charge, &c., as a gift or a legacy.

Propres.

This term meant, in the *pays coutumiers*, real or immoveable property (including annuities and saleable offices) coming by descent (*biens échus par succession*) in a direct or collateral line, or by gift in a direct line. The word *propres* was used in contradistinction to the word *acquêts*, which meant real or immoveable property acquired otherwise than by descent, directly or collaterally, or by gift in a direct line.—See *supra*, "Acquêts" and "Conquêts."

According to the Roman law, as practised in the *pays de droit écrit*, there

existed no difference whatever between *propres* and *acquêts*, and a person might make a testamentary disposition of all his property without such distinction; and moreover the next of kin succeeded in cases of intestacy to all his property, also without any such distinction.

But in the *pays coutumiers* a difference existed between *propres* and *acquêts*; and one of the most prominent features of this difference was, that a person could dispose by will of all his *acquets*, but only of a fifth part of his *propres* (see *infra*, "QUINT"). Again, if he died intestate, his nearest relations succeeded to the *acquêts*; but with respect to the *propres*, they belonged to the line whence they proceeded, according to the rule *paterna paternis, materna maternis* (see *infra*, "SUCCESSIONS").

It is stated by several authors that the laws affecting *propres* formed part of the legislation of the ancient Gauls; but whatever may have been their origin, the object constantly kept in view appears to have been the retaining of the bulk of the immoveable property in families, allowing only a certain portion of it to be alienated.

Propres were divided into the following kinds or denominations:—1. *Propres anciens*; 2. *Propres naissans*; 3. *Propres paternels et maternels*; 4. *Propres véritables*; 5. *Propres fictifs*; 6. *Propres de succession*; 7. *Propres de disposition testamentaire*.

A *propre ancien* was immoveable property that descended in a direct line from a person's ancestors, as from his grandfather or other ancestor.

A *propre naissant* was immoveable property, which was an *acquêt* while in the possession of the person from whom it was acquired, either by succession in a direct or collateral line, or by donation to be inherited in a direct line.

A *propre paternel* or *maternel* was immoveable property that came from the father or mother's side, as the case might be. The rule of succession to this property will be explained *infra*, under the heading "SUCCESSIONS."

A *propre véritable* was immoveable property that came to a person either by succession in a direct or collateral line, or by donation to be inherited in a direct line.

A *propre fictif* was either a sum of money or other moveable, or an immoveable property which was not of the nature of *propres*, but was so by fiction, or by convention of the parties, &c. With respect to a sum of money or other moveable property, stipulations were often made in marriage settlements that a certain portion or the whole of such property should be considered as *propres* for the wife and her children, or other natural heirs.

A *propre de succession* was (for instance) an immoveable property bequeathed to a person, who was no relation to the testator, on condition that the property should remain in the devisee and his children, or other natural heirs. Such a devise could not prevent the devisee from disposing of this *propre* by will.

A *propre de disposition testamentaire* was immoveable property, of which only the fifth part could be disposed of by will. Of this kind were immoveables derived by succession in a direct or collateral line, or given to be inherited in a direct line.

QUESTIONS D'ÉTAT.

A *question d'état* was the trial of a cause for the purpose of determining the *status* of an individual, that is, whether he was or was not the person that he

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assumed to be. *Questions* touching the validity of marriages were also included in the above term.—See the "*Causes Célèbres*," Nos. 5, 8, 22, 26, 41, 58, 63, 65, 79, 94, 99, 110, 151, and some others, *ante*, pp. 108—113.

QUINT AND QUATRE-QUINTS.

By the term *quint* was meant the fifth part of the *propres* which a person was allowed to dispose of by will in the *pays coutumiers*. The other *quatre-quints* or four parts were not allowed by the customary laws to be disposed of to the prejudice of a person's heirs (children, &c.) These *quatre-quints* were a kind of customary *légitime*.—See *supra*, "LÉGITIME," and "PROPRES."

REGISTRATION.—See *supra*, "INSINUATION."

For the registration of births, marriages and burials, see the Ordinances of April, 1667, and April, 1736.

RENTS.

Rents were of several kinds and denominations; the principal of them were the following:—1. The *cens*, called also the chief or first rent, rent of fief, or feudal or seigneurial rent (see *supra*, "CENS"). 2. The *rente foncière*, a ground rent, also called *sur-cens*; it was due the first after the *cens*. 3. *Rentes constituées*, or annuities. In respect of the rents usually reserved on ordinary leases or hirings, see *supra*, "LEASES."

PRINCIPES DE RENTES constituées. 12mo. Nîmes, 1758.

A Treatise on Annuities.

JURISPRUDENCE DE RENTES, ou CODE DES RENTIERS, par Ordre Alphabétique; par De Beaumont. 12mo. Paris, 1784.

The Practice of the Courts regarding Rents, or the Code of Landlords, &c., by De Beaumont.

MANUEL DES RENTES, &c.; par M. de Massac. 12mo. Paris, 1777.

A Manual of Rents, by Pierre-Louis de Massac, an advocate in the parliament of Paris. He published a supplement to this work in 8vo., Paris, 1779, under the title of *Traité des Immatricules*, &c.

See Pothier's works, Nos. 4 and 5, *ante*, p. 162.

RETRAIT LIGNAGER.

This term meant the right reserved to parents of repurchasing any *heritage propre* that had been sold by their children, by repaying the purchase-money and all reasonable costs. There were several other kinds or denominations of *retrait*, or the right of repurchase; the chief of which were the *retrait conventionnel*, and the *retrait féodal*. The former kind was reserved by a vendor, by an express clause to that effect in the purchase deed. The latter kind belonged of common right to the lord of a fee (*seigneur dominant*), who had the power of redeeming or taking back any *héritage*, depending on his fief, that had been alienated. All the various kinds of *retrait* were abolished in the early part of the Revolution.

PARAPHRASE DU DROIT DE RETRAIT LIGNAGER, recueillie des Coutumes de France, &c.; par François Grimaudet, Advocat du Roy au Siege Presidial d'Angers, &c. 4to. Paris, 1567.

A Treatise on the *Retrait Lignager*, by Grimaudet. His works have been noticed, *ante*, p. 136. To this work is added a preface by Ayrault, on the nature, variety, &c. of *retraits*.

The work is divided into nine books, which are subdivided into chapters: there is an index.

Book 1 treats of the subject generally; 2. Who may exercise the right; 3. Against whom an action on this account may be brought; 4. In respect of what things the right may be exercised; 5. Of contracts in respect of the same; 6. Of proceedings at law concerning the *retrait*; 7, 8. Of the price and the expenses to be paid to the seller; 9. Within what time actions are to be brought in respect of the same.

DE LA PRESCRIPTION CONTRE MINEURS ET IGNORANS, en matiere de Retrait Lignager, &c.; par François Grimaudet, &c. 12mo. Paris, 1572.

A Treatise on Prescription, as running against Minors, &c. in respect of the *Retrait Lignager*.

This is the 10th book of the preceding article, and was composed by the same author. It is divided into 24 chapters, which do not require to be particularly noticed.

See the works of Tiraqueau, No. 3, *ante*, p. 132, and Pothier's works, No. 3, *ante*, p. 162.

ROADS, STREETS, &c.

EXPOSITION DES COUTUMES sur la largeur des Chemins, sur la Destination des Péages, sur la Question si la Voyerie est une Suite de la Haute-Justice, &c. 12mo. Paris, 1687.

Explanation of the Customary Laws respecting Roads, &c.

CODE DE LA VOIRIE; par Mellier. 2 vols. 12mo. Paris, 1753.

The Code of the Roads, &c., by Mellier.

This work contains a treatise by Mellier on the subject of roads, &c., the laws of the various *coutumes* respecting the width of the roads, and other matters connected therewith.

The term *voirie* or *voyerie* meant the right of inspection and management of the roads, streets, &c. It was divided into two kinds, the great and the little *voirie*. The former was confined to the high roads and streets, and the paving, &c. of the same. The latter was confined to the repairs and the paving of the streets, the placing of pipes to carry off the water (*goutières*), &c. In former times there was a *grand voyer* for all France, but his office was abolished in Louis XIII.th's time. The treasurers of France were afterwards *grands voyers*.

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Rural Affairs.

Code Rural, ou Maximes et Règlemens concernant les biens de Campagne, &c.; par M. [A.-G. Boucher d'Argis], Avocat au Parlement. 2 vols. 12mo. Paris, 1762.

The Rural Code, or Laws and Maxims concerning Landed Property in the Country, by Boucher d'Argis, an advocate in the parliament of Paris.

This work is divided into 36 chapters, and consists of short sentences or maxims, taken from the *coutumes* and ordinances, and from the works of authors. The maxims occupy only one-half of the first volume; the other portion of the work comprises the illustrations or proofs to each chapter, which consist of decisions of the sovereign courts, royal declarations, ordinances, and other acts. This is a new edition of the work, and has an *avertissement*, three indices, and notes. The headings of the chapters are as follows:—

Chapter 1. Of the property in the country generally; 2. Of lands held in frankalmoigne; 3. Of *franc-aleu*, or allodial property; 4. Of fiefs; 5. Of *cens* and other seigneurial rents; 6. Of castles, and of the marks or signs of seigneury; 7. Of the administration of justice by the *seigneurs*; 8. Of *droits honorifiques*; 9. Of hunting, &c.; 10. Of rivers and streams, and their conservation, &c.; of fishing, and of water-mills; 11. Of roads, ways, and paths; 12. Of domestics; 13. Of serfs; 14. Of *corvées*; 15. Of the *bannalité* (see *infra*, "Seigneuries"); 16. Of the seigneurial *taille*; 17. Of the king's *taille*; 18. Of rural servitudes; 19. Of buildings and inclosures, &c.; 20. Of dove-cots, pigeons, &c.; 21. Of cattle, poultry, game, bees, &c.; 22. At what distance from a neighbour's grounds trees may be planted; 23. Of fee-farm rents and emphyteutic leases; 24. Of farming and *cheptel* leases; 25. Of corn and other produce, both before and after it is cut or harvested; 26, 27. Of tithes, ecclesiastical and lay (*inféodées*); 28. Of *champart*, also called *agrier* and *terrage*; 29. Of gleaning; 30. Of stubble; 31. Of vineyards; 32. Of meadows and pastures; 33. Of woods and forests; 34. Of boundaries, land-marks, &c.; 35. Of mayors, *échevins*, &c.; 36. Of the employment of women and girls in spinning.

Saisie.

By this term was meant a seizure or sequestration, or a distress on property by the *huissiers* or serjeants, in order to secure the payment of debts, dues, &c. It could only be made (with few exceptions) as a consequence of a contract, or by virtue of a decision or order of a judge. There were various kinds of *saisies*, the principal of which were the following:—

1. *Saisie-annotation.* This meant the seizure of the property of those persons who had been ordered to be arrested, and could not be found after due search made after them.

2. *Saisie-arrêt.* This meant a seizure made by a creditor on the property of his debtor, which was in the hands of a third party, who was indebted to the cre-

ditor's debtor; and the object of this *saisie* was, that the third party should not dispose of the property to the prejudice of the creditor.

3. *Saisie-brandon* was the act whereby a creditor caused to be seized corn, &c. before it was cut (*les fruits pendans par les racines*), belonging to his debtor.

4. *Saisie-exécution* was a seizure of the moveable property of a debtor, found in his possession, at the request of a creditor, in order that it might be sold, and the creditor be paid out of the produce.

5. *Saisie-féodale* or *censuelle*. This was a distress made by the superior lord of the fee on a fief held of him (*relevant de lui*), in order to compel the tenant to do homage and pay his dues, &c.

6. *Saisie-gagerie*. This was also a seizure of moveable property; but there was this difference between it and the *saisie-execution*—that, in the former case, the property remained in the power of the owner, who was then looked on merely as the depositary of it.

7. *Saisie-immobilière* meant the first act (after the summons by the *huissier* to the party to pay what he owed to his creditor, &c.), which put the immoveable property of a defendant in the hands of the law. In a larger sense, the term meant the whole proceedings relating to the seizure and the distribution of the proceeds of the consequent sale of the property.

8. *Saisie-réelle* meant the seizure or distress upon property in the nature of immoveables, as rents, offices, &c., vessels on the water, mills, &c.

SEIGNEURIES.

A *seigneurie*, seigniory or lordship, was a fief or feudal property: it was of two kinds, namely, the *directe* and the *utile*.

A *seigneurie directe* (*dominium directum*) was a fief, of which other lands, whether fiefs or *censives*, were held (*relevaient*).

A *seigneurie utile* (*dominium utile*) signified a *fief servant*, that is, a fief depending on another fief, or a property held *en censive*.

The chief lord of the fee was styled the *seigneur féodal*; to him were due (among other things) fealty, homage and relief. He was also called the *seigneur foncier* and the *seigneur dominant*. A *seigneur* of a village or of a town appears to have been a *seigneur haut-justicier*. A *vidame* was a *seigneur* who held of a bishop. A *seigneur châtelain* was one who was entitled to have a *maison forte* or castle.

In regard to the fines and relief payable by the tenants on the property passing into other hands, by purchase, gift, &c. or death, the following were the customary regulations on that head:—

If the tenant sold or exchanged the land, a fine of the fifth part (called the "*quint*") of the purchase money, or other valuable consideration, was payable to the *seigneur*, on such sale, &c. taking place.

If the property fell into other hands by death, devise, gift or other similar alienation, a relief (*relief* or *rachat*) was then payable to the *seigneur*. This relief appears to have been fixed in all the *coutumes* at a year's value or income of the property, as estimated by certain *prud'hommes* selected for that purpose: these were generally gentlemen of the neighbourhood. The tenant might make an offer of a certain sum as a relief, and the *seigneur* had the option of taking either that sum or the estimated yearly income. Only one relief could be claimed in the year.

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On the change of the lord of the fee, it would seem that no relief nor fine was due, but only fealty and homage, and also avowry (*aveu*, that is, an acknowledgment of the *seigneur* by his tenant), and a statement was required to be made by the tenant of all the lands which he held, &c., which was called *dénombrement*. —See "*Adveu*" and "*Dénombrement*," in Ferrière's *Dictionnaire*.

In respect of lands held in *censive*, a fine was paid to the *seigneur* on alienation, exchange, &c.: this fine was termed *lods* (or *lots*) *et ventes*, and was a twelfth part of the purchase-mouey or other valuable consideration. This due was also called *quasi lods et ventes*. There was also due to the *seigneurs*, in some *pays*, on every other mutation of the property held in *censive*, a fine called *mi-lods*, being one half of the *lods et ventes*.

The *seigneur* had the exclusive right of providing a mill for grinding the corn of his *sujets*, an oven for baking their bread, a press for making their wine, and a bull for the service of their cows. The *sujets* were forbidden to make use of any other than the mill, wine-press, oven and bull provided by the *seigneur*, and a certain fee was payable to him for the use of them: these privileges were styled respectively the *moulin bannal*, the *four bannal*, the *pressoir bannal*, and the *taureau bannal*. The general term for these seigneurial rights was "*ban*" or "*bannalité*," which meant both a proclamation calling on the *sujet* to go to the mill, the oven, &c., and also a prohibition to use any other.

Besides the above *bans*, there was a *ban à vendanges*, which consisted in the right that the *seigneurs* had, in several *coutumes*, of fixing the time (which was done by proclamation) for the gathering in of the grapes (*vendanges*), and no one could begin before the time fixed, under a penalty.

There was also another *ban*, called *ban à vin*, *ban-vin*, or *ban-de-vin*, which was a right enjoyed by the *seigneur*, in some of the *coutumes*, of forbidding any other wine than his own to be sold in retail, within a certain specified time.

Nearly all the *seigneurs* had a right to *coucher la première nuit avec les nouvelles épouses de leurs vassaux*, or to receive a fee by way of commutation. See "*Culage*," or "*Cullage*," and "*Markette*," in the various Dictionaries.

In some of the *pays coutumiers*, when a person wished to dispose of his property which was held in *censive* (see *supra*, "CENSIVE"), or to mortgage it, it was necessary that he should divest himself of it, and remit it (that is, surrender it) into the hands of the *seigneur* or lord (by the ceremony of breaking a stick in two), for the benefit of the purchaser or mortgagee, who was obliged to go before the *seigneur* for that purpose; who thereupon gave such purchaser or mortgagee seisin (*saisine* or *vest*), by delivering into his hands a stick (*bâton*). This ceremony was also practised, in some cases, in *nantissements*.

The *seigneurs* had their *papier terrier*, which was a document or roll containing a description of all their lands, and of the rights and services incidental to them. The declarations, &c. of the tenants, when entered on the *papier terrier*, were regarded as evidence against them and in favour of the *seigneurs*. Much ceremony was used in the compiling of the *papier terrier*, as may be seen in Ferrière's *Dictionnaire*, article "*Papier Terrier*."—See *ante*, p. 264.

SERVITUDES.

Servitudes or services were of two kinds, personal and real.

Personal servitudes were those which were due to persons, and which accrued in respect of lands, &c. (*héritages*); they were usually distributed into three

kinds, namely, usufruct, *usage* and *habitation*. For an account of the services, &c. due from the serfs, see in Ferrière's *Dictionnaire* the articles "*Serfs*" and "*Gens de main-morte.*"

Usufruct meant the right of enjoying for life the income or produce of a certain property. The usufruct of an inheritance was considered as immoveable property.

By the term "*usage*" was meant a right of taking or using certain things belonging to other persons, as the right of cutting wood (for fuel or for repairing houses and buildings, or for agricultural implements, &c. *harnois*), or of depasturing cattle in the king's forests or in those of private individuals. The "*usage*" also extended to pasturage, woods, commons, &c. belonging to corporations (*communautés*). This right was personal, and could not be alienated nor let.

Habitation was a right of dwelling in a certain house without paying rent. See Pothier's works, No. 16, *ante*, p. 165.

Real servitudes, or those due in respect of landed property (*héritages*), were divided into two kinds, city and prædial or rustic: the former kind related to houses built in cities, in villages, or in the *campagne* or open country, and the latter to lands only. City servitudes had relation to party-walls; the allowing of the water to fall from the roof of a house upon the roof or into the yard, &c. of an adjoining house; the right of building to a certain height, that of having windows to open on a neighbour's grounds, &c.

Rustic or prædial servitudes had relation chiefly to the right of way over a neighbour's lands, both for individuals and carts, horses, &c.; to the right of having pipes to convey water across a neighbour's lands, of watering cattle at, or drawing water from his watering-places, wells, &c.; the right of pasturing cattle on his land; or of taking gravel from them, or burning chalk on them, &c.

TRAITÉ DES SERVITUDES RÉELLES, à l'usage de tous les Parlements et Sièges du Royaume, &c. Par M. Lalaure, Avocat. 4to. Paris, 1761.

A Treatise on Real Servitudes, by Lalaure.

Claude-Nicolas Lalaure, an advocate in the parliament of Paris, was born in 1722, and died in 1781. He edited Bardet's Decisions of the Parliament of Paris, noticed *ante*, p. 95.

See *supra*, "BUILDINGS."

STATES-GENERAL.

The name of "States-General" (*États Généraux*) was given to the national meeting or assembly, which was instituted by Philippe-le-Bel, in 1301—2. This meeting was composed of deputies from all parts of the kingdom, of the three orders of the people, namely, the clergy, the nobility, and the commoners or third estate (*tiers état*).

Before entering into details respecting this national meeting (which must not be confounded with the parliaments), it seems proper to give some account of the national assemblies which existed previously to the establishment of the States-General.

It seems, according to the testimony of the best writers on the subject, that the Franks, previously to their conquests in Gaul, were accustomed to have their yearly meetings to deliberate on the general affairs of the nation; and these

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meetings appear to have been composed of the chief men of the tribes, generally speaking. The custom of meeting to settle matters affecting the whole body of the nation or tribe was common to all the people of Teutonic or Gothic origin. After the Franks had possessed themselves of Gaul, the same kind of meeting or council was continued to be held for the general welfare. Under Clovis and the following kings of the first line or dynasty, these meetings were held yearly in the open air, and in the month of March (that month beginning the year at that time and also at a later period); but in the reign of Pepin the Short, they were held in the month of May. The reason assigned by historians for this change of the time of meeting is, that cavalry began to be used in the armies about this time, and that the month of May was more convenient on account of the forage that could be procured for the horses in that month. From this remark it might be reasonably inferred that the national meeting or council was composed chiefly of the army. These meetings or councils appear to have been discontinued towards the tenth century, when France was divided into many separate quasi-sovereignties or fiefs, and were only in effect revived (as is generally supposed) by the institution of the States-General by Philippe-le-Bel in 1301-2, as before mentioned.

With regard to the composition of the national meetings that existed before the institution of the states-general, it is feared that nothing but conjecture can be offered to the reader. Who could take on himself to write a detailed account of the true composition and other particulars of the *Witena-gemot* peculiar to each kingdom of the Anglo-Saxons, or of their general *Witena-gemot* (if such general assembly ever existed)? Assuredly, no one. It may however be reasonably supposed, that the army of the Franks, at the time of their conquests in Gaul, formed the national assembly, and in all likelihood through the medium of their princes and chieftains; and that this practice continued till the nation had become so populous, by intermixture with the Gauls, that they no longer could pretend to be exclusively the nation of the Franks. It may be safely inferred that the national meetings would, in the course of time, be composed of the chiefs of the army and of other notable persons, and that they, together with the king, formed in reality the legislative power. The clergy were admitted into the national councils or meetings so early as the beginning of the seventh century.

It is stated by various authors, that Charles Martel gave but little encouragement to these meetings, during the whole period of his government. His son Pepin the Short is said to have restored the authority of the clergy in them; and Charlemagne, soon after his accession in 768, restored the authority of the national meetings. Various assemblies took place during the reign of this monarch, which will be found enumerated in the Count de Boulainvilliers' works, noticed *infra*, and also in the 3rd volume of Mademoiselle de Lézardière's work, noticed *supra*, p. 193.

The national meetings appear to have been convened, in the earliest period of the monarchy, but once a year; in after times they met in the spring and in the autumn.

With respect to these ancient assemblies of the nation, it is proper to notice the various names by which they are mentioned by historians. During the period of the first dynasty of the kings, the names given to them were, according to the compiler's researches, the following: *mall, mallus, mallum, campus martis* (called by authors the *champ de Mars*), *synodus, conventus, consilium seniorum.*

Under the second dynasty, the most usual names were—*mallus*, or *mallum*, *Maii campus* or *campus madius* (called by authors the *champ de Mai*), *conventus*, *conventus populi*, *conventus generalis*, *conventus populi*, *populus*, *populus noster*, *synodus*, *concilium*, *concilium ejus* (that is, of the king). The expressions also occur—*rex tenuit concilium ejus*, *rex habuit populi sui conventum*, *rex habuit synodum*, *synodum rex tenuit generaliter cum Francis*, *rex synodum placitumque publicum tenuit*. Not to trouble the reader with too many quotations on this subject, the compiler will merely observe, that during the Carlovingian dynasty, the general names for the national meeting, or for the council (which, under the heading "PARLIAMENTS" has been already noticed by him, as being the origin of the parliament of Paris), were—*placitum*, *placita*, *placita generalia*; and that towards the twelfth century, the term *parlementum* began to be used exclusively to designate the king's court.—To return to the states-general. The first assembly of the states-general was convened by letters of the 23rd March, 1301-2, which are stated to be lost. They were addressed to the barons, archbishops, bishops and prelates, the cathedral churches, chapters, universities and colleges, directing them to send deputies; and to the royal bailiwicks, directing them to cause syndics to be elected by the cities. It is stated that the king (Philippe-le-Bel) convened the national assembly in this form, at the suggestion of his minister, Enguerrand de Marigny, in order to raise a subsidy for carrying on the war with Flanders, and for supplying the king's other wants. He had also in view the gaining of the affections of the people, which was a matter of importance, as his quarrel with Pope Boniface VIII. was just then beginning. These states were held in the cathedral of Nôtre Dame. It is stated by many impartial French writers, that the form of this latter national assembly or states-general was borrowed from the then recently established parliament or national council of England, particularly with regard to the novel introduction of the commoners into the national councils. There is no reason to doubt the correctness of this statement. Many authors, however, contend that a kind of third estate was admitted into the king's councils some time before the institution of the states-general; and they mention particularly the meeting of a *parlement* (assembly) at Paris in 1241, which consisted of the barons, the clergy and the deputies of the "good cities." These deputies are stated to have been *clercs* (lawyers).—The states seem to have been convened nearly every year during the fourteenth century, and sometimes as often as twice a-year, according as the kings wanted subsidies, and as affairs of great importance required the advice and assistance of the national councils. During the fifteenth and sixteenth centuries, they met less frequently, in proportion as the monarchy was becoming more absolute, until at length, in 1614, the last meeting of the states took place, previously to that of the celebrated states of the 5th May, 1789.

The states-general had no power to meet of themselves, but were convened entirely at the discretion of the king; and, in later times, they were seldom called together, except upon some pressing emergency, and generally on petition presented for that purpose.

An account of the first *États Généraux* in 1301-2, will be found in the first volume (Jurisprudence) of the *Encyclopédie Méthodique*; and in Expilly's *Dictionnaire*, article "*États Généraux du Royaume*," will be found a statement of the ceremonies used at the assembling of the states of 1614.

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The composition of the three orders of the deputies was as follows:—The order of the clergy comprised clergymen of all ranks; the order of the nobility was confined to nobles by birth, and judicial, military and financial offices, which conferred the rank and title of nobility; the third estate, or the commons, consisted of all such persons as were neither clergymen nor noblemen; it comprised judicial, police and finance officers, advocates, physicians, notaries, attornies, citizens, merchants, tradesmen, and agriculturists, &c.

The following was the manner of calling together the states-general:—The king caused writs to be sent to all the seneschals and bailiffs, wherein they were each ordered to convene three assemblies, one of the clergy, another of the nobility, and the third of the commons. Each of these assemblies appointed deputies, who were to go to the place appointed by the king for the general assembly. On their arrival there, each of the three orders met in a separate chamber which had been previously assigned to it. At the first sitting, each order appointed one or more presidents, secretaries and assessors, and also one of its members as spokesman. A general procession was afterwards formed, consisting of the king and his court, and the peers and the members of the states, and a mass of the Holy Ghost was performed. Some days afterwards the deputies assembled at whatever place the king was then resident; at which meeting the king made a speech to them, stating briefly the cause of calling them together; and the chancellor thereupon explained the reasons more at length.

Each of the three orders assembled in a separate chamber or place; and the three orders then conferred together (by deputies) on those matters which were of paramount interest. These matters were afterwards debated on by each order separately. Each order then drew up a *cahier*, which was a paper containing the representations or demands for the redress of grievances, &c.,—hence these demands were termed *doléances*, and some of the ordinances were entitled as made "*Sur les Doléances des Etats, &c.*" These *cahiers* were presented separately to the king, who, after taking time to deliberate on the subject-matter contained therein, issued such ordinances or other acts, in compliance with the contents of the *cahiers*, as he thought proper. The states then had clearly no legislative power vested in them.

Petitions had been presented at various times since the last meeting of the states in 1614, praying that they might be convened, and particularly soon after the death of Louis XIV.; but such assemblies were too distasteful to the court to be revived. It was the celebrated Lafayette who, in the Assembly of the Notables held in 1787, made a formal demand that the States-General should be called together. This request was acceded to, and the last meeting of the states in 1789 was the consequence.

The following is a list of the deputies to the States-General assembled in 1789:—

Clergy.—Archbishops, 11; bishops, 33; vicars, 188; canons, abbots, priors, rectors, 76. Total, 308.

Nobility (not comprising the nobility of Brittany).—Princes and dukes, 21; counts, 78; marquesses, 73; viscounts, 16; barons, 29; gentlemen, magistrates, &c, 68. Total, 285.

Tiers-état or Commoners.—Magistrates, 106; advocates, 191; physicians, 15; merchants, 61; landed proprietors, &c., 244; literary men, 4. Total, 621.

The whole number of the deputies or members was 1214. In the "*Annuaire Historique*" for 1840, the number is stated to have been only 1186.

On the 1st of May, 1789, the king received the deputies to the states at the *château* of Versailles. On the following Sunday there was a grand procession, consisting of the king, the states, &c., to the church of Saint-Louis at Versailles.

The states were opened on the 5th of May, 1789, in the *Salle des Menus* [*Plaisirs*] at Versailles. The king delivered an address, which was followed by another delivered by the keeper of the seals, touching the reforms already made and those to be made in the general affairs of the country. This address was followed by a report made by Neckar, the director-general of the finances, touching the "ways and means" of the country, and the reforms to be effected in the finance department.

CHRONOLOGIE des États-Généraux où le Tiers État est compris, depuis l'an 1614 jusqu'en 422 (en rémontant); par M. Jean Savaron, &c. 8vo. Paris, 1615.

A Chronology of the States-General (or other national assemblies) from 422 to 1614, by Savaron, a king's counsellor, and a deputy to the states-general of 1614.

The work is dedicated to Louis XIII.

QUATORZE LETTRES sur les Anciens Parlements de France, ou États-Généraux du Royaume. 3 vols. 12mo. London (Rouen), 1753.

An Historical Account of the Ancient National Assemblies of France, in Fourteen Letters, by the Count de Boulainvilliers.

These letters form part of a work by the Count, intitled "*Histoire de l'Ancien Gouvernement de France, avec Quatorze Lettres Historiques sur les Parlements, ou États-Généraux*," which was printed at the Hague in 3 vols. 8vo. 1727.

Henri, Count de Boulainvilliers, was born at Saint-Saire, in Normandy, on the 11th of October, 1658, and died on the 23rd of January, 1722. A list of his numerous works, which are chiefly historical, will be found in the *Biographie Universelle*, article "*Boulainvilliers.*"

These letters were translated into English by Forman, and published in London, in 2 vols. 8vo. 1729.

By the word "parliaments," the author means merely the national assemblies, and not what is usually known by the name of the "parliaments" of France. He has treated of the parliaments in another work.

The subjects treated on in the letters are as follows:—Letter 1 contains reflections on the histories of France written by Mezeray and Daniel; 2. Treats of the assemblies under Charlemagne, and their composition; 3. Contains an enumeration of the assemblies under the second race of kings; 4, 5. Treat of the establishment of fiefs, of knighthood, &c.; 6. Treats of the general assemblies under Philippe-le-Bel; of the first convocation of the states-general; 7—14. Treat of the reigns of the succeeding kings, till the time of Louis XI.

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FORME Générale et Particulière de la Convocation et de la Tenue des États-Généraux de France, &c. 3 vols. 8vo. Paris, 1789.

The Form of Convocation and Holding of the States-General.

RECUEIL de Pièces Originales et Authentiques concernant la Tenue des États-Généraux. 9 vols. 8vo. Paris, 1789.

A Collection of Original and Authentic Documents concerning the Holding of the States-General.

RECUEIL des Cahiers Généraux des Trois Ordres aux États Généraux d'Orleans 1560, de Blois 1576, de Blois 1588, et de Paris 1614. 4 vols. 8vo. Paris, 1789.

A Collection of the *Cahiers* of the Three Orders of the States-General held in 1560 at Orleans, in 1576 and 1588 at Blois, and those held at Paris in 1614.

These last three collections or works were made by MM. Laloureé and Duval, both counsellors in the Châtelet.

HISTOIRE DES ÉTATS-GÉNÉRAUX et des Institutions Représentatives en France, depuis l'Origine de la Monarchie jusqu'à 1789. Par A. C. Thibaudeau. 2 vols. 8vo. Paris, 1843.

A History of the States-General and Representative Institutions of France, from the earliest Period of the Monarchy till 1789, by Thibaudeau.

The work is divided into reigns, and contains an historical introduction relating both to the states-general or national assemblies, and to the parliaments. The reigns of Henri III. and Henri IV. occupy nearly one-half of the second volume.

This work may be considered as a supplement to De Boulainvilliers' history.—The most comprehensive work on the national assemblies of France is that by De Mayer, intitled "*Des États Généraux et autres Assemblées Nationales*," in 18 vols. 8vo. Paris, 1788—89.

To the above may be added the two following works on this subject:—

HISTOIRE Complète de États-Généraux en France, suivi d'un Examen Comparatif de ces Assemblées et des Parlements d'Angleterre; par E.-J.-B. Rathery, de la Bibliothèque du Louvre, Avocat à la Cour Royale de Paris. 8vo. Paris, 1845.

A History of the States-General, with a comparative Examination of those Assemblies and of the Parliaments of England, by Rathery, an advocate in the Cour Royale at Paris.

HISTOIRE Complète des États-Généraux et autres Assemblées Représentatives de la France, depuis 1303, jusqu'à 1628;

par M. A. Roussée, ancien Magistrat. 2 vols, 8vo, Paris, 1845.

A History of the States-General and other Representative Assemblies of France, from 1303 (1301-2) to 1628, by Roussée, formerly a magistrate.

M. Roussée has fallen into an error, in ascribing to the year 1628 the last meeting of the states-general previously to that of May, 1789. The last meeting took place in 1614.—The *proces-verbaux* of several states-general have been recently published in Paris.

States (Provincial).

The name of Provincial States was given to the meetings of the deputies of the three orders of the provinces or *pays* which had states: these orders were the clergy, the nobility, and the *tiers-état* or commoners.

The origin of these states is to be sought in the assemblies or councils of the great feudatories of the crown, who, at the time when the general meetings of the nation (as it is supposed) ceased to be convened, namely, towards the tenth century, had their own meetings or councils to deliberate on the general affairs of their fiefs: and it is acknowledged that the chief provincial states were instituted long before the grand states or States-General.

The provinces and *pays* which had states were Alsace, Artois, Brittany, Burgundy, Dauphiny [the states of this province had not assembled from the year 1615-16 till the Revolution, in 1789], French Flanders, Hainault and Maubeuge, Languedoc, Lorraine, Provence, Roussillon, the three bishoprics of Metz, Toul and Verdun, Basse-Navarre, Béarn, Bigorre, Soule and Nebouzan, and perhaps some others.

The power of the provincial states appears to have been confined, in each province where they existed, to the assessing of the contributions which were to be furnished by the inhabitants of the province or *pays*. In this sense they were opposed to the *pays d'élection*. (See *supra*, pp. 221, 222.)

The states were convened by virtue of the king's letters. The states of Burgundy assembled every three years; those of Bretagne every two years, and those of Languedoc, Provence, Artois, Béarn, Navarre, and the *pays* de Foix, once a year. The other states assembled about once a year.

The name of States-General was often applied to the provincial states.

Essai Historique sur les États-Généraux de la Province de Languedoc, &c.; par Le Baron Trouvé, ancien Préfet du Departement de l'Aude, &c. 2 vols. 4to. Paris, 1818.

An Historical Essay on the States-General of Languedoc, by the Baron Trouvé.

The first volume only relates to the States-General; the other contains a topographical and historical account of the department of the Aude, in six books, divided into chapters. There are numerous maps and engravings in the two volumes. The first volume contains a dedication and an introduction; and each volume has an index of chapters, &c. The Essay is divided into two parts, and subdivided into chapters. The chapters of the first part treat of the origin of the states, and of the assemblies of Gallia Narbonensis before and during the time of the Romans, and from that

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period till the time of Charlemagne. An account of the proceedings of the states is then given during the different reigns till their abolition by the national assembly in the year 1790. The chapters of the second part treat of the political constitution of Languedoc, the composition and jurisdiction, &c. of the states, the sittings of the states, the debates, &c.; of the revenues of the province, and other miscellaneous matters. At the end there is a notice of the value of money in the different reigns.

A very copious list of histories and other works on the States-General, Provincial States, and Assemblies of the Notables, will be found in the 2nd vol. (pp. 758—795) of Lelong's *Bibliothèque Historique;* and also in the 2nd vol. (Jurisprudence) of the *Bibliothèque du Roi*, pp. 451—464.

STATUS.—See *supra*, "QUESTIONS D'ÉTAT."

STATUTES.

TRAITÉ DES STATUTS, par Fr. Lemée. 8vo. Paris, 1688.

A Treatise on Statutes, by Lemée, an advocate.

TRAITÉ DE LA PERSONNALITÉ ET DE LA REALITÉ DES LOIX, COUTUMES, OU STATUTS, par forme d'Observations, &c. Par feu Me Louis Boullenois, ancien Avocat au Parlement. 2 vols. 4to. Paris, 1766.

A Treatise on the Laws Personal and Real, &c. by Boullenois.

Louis Boullenois, an advocate in the parliament of Paris, was born in 1680 and died in 1762. Another work by him, on the *Démissions des Biens*, is noticed *supra*, p. 242. The present work is an enlargement of a work of his which was published in 4to. Paris, 1732, under the title *Dissertation sur des Questions qui naissent de la Contrarieté des Lois et des Coutumes.*

This work is divided into four titles, which are subdivided into chapters, &c. At the end of the 2nd volume is printed Rodenburg's Treatise *de Jure quod oritur ex Statutorum vel Consuetudinum diversitate*, which Boullenois is stated to have translated into French.

Titles 1, 2, treat of the rights which arise out of the diversity of statutes, or of the law which governs married people in regard to domicile, &c.; 3, 4, of agreements whereby persons can prevent (*prévenir*) the diversity of laws in respect of domicile.

MÉMOIRES CONCERNANS LA NATURE ET LA QUALITÉ DES STATUTS, &c. Par M. Louis Froland, ancien Avocat au Parlement. 2 vols. 4to. Paris, 1729.

Mémoires touching the Nature of Statutes; various Questions of Law and *Coutume;* and the Decisions on the Subject; by Froland.

Louis Froland, an advocate in the parliament of Paris, was born towards the end of the seventeenth century, and died in 1746. Besides a collection of the decisions of the parliament of Normandy made by him, he composed two other works on law.

The present work is divided into 33 chapters. The principal subjects

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treated on in them are as follows:—Statutes real, personal and mixed; community of property between husband and wife; dower; *garde noble* and *bourgeoise, garde royale* and *garde seigneuriale;* the paternal authority and emancipation; mutual gifts; the *senatus-consultum Velleianum;* the alienation of the wife's dotal property; *bagues et joyaux, paraphernalia* and majority.

See the list of authors quoted in Story's "Conflict of Laws," in the American division of this Catalogue.

Substitutions.

Denisart, in his *Collection de Décisions Nouvelles*, defines a substitution to be "a second disposition whereby a testator, who has already instituted a first legatee or a first heir, appoints a second to receive the benefit of his gifts (*recueiller sa libéralité*), in default of the first, or after him." The preamble of the ordinance on substitutions (1747) terms it "a new kind of succession, whereby the will of man, taking the place of the law, has established a new kind of jurisprudence, which has been received the more favourably because it has been looked on as tending to the conservation of the inheritance of families, and to furnish to the most illustrious houses the means of supporting their splendour," &c. And the *Dictionnaire de l'Académie* (6th ed. 2 vols. 4to. Paris, 1835) thus defines a substitution: "Substitution means (in jurisprudence) a disposition whereby a person calls to his succession or inheritance one or several heirs successively after him who has been instituted heir, so that this individual [the instituted heir] cannot alienate the property which is subject to the substitution."

As neither of the above definitions of a substitution can be said to give a clear idea of the meaning of the word to a mere English lawyer, that is, to one not versed in the Roman law and jurisprudence, the compiler ventures to give his own explanation of the nature of this appointment.—A substitution in law meant literally the putting of another in the place of a person to whom a previous disposition of the property had been made, by deed *inter vivos*, or by will (*testament ou codicile*), as the case might be. The interest thus given to such substituted person might be either absolute or for his life, and after his death to be transmitted to others, and either in succession or not; and also by way of entail.

Substitutions might be made either by act *inter vivos* or by will, as before intimated. The former kind was generally made on the occasion of a marriage settlement. See *ante*, "Institution Contractuelle."

There were two kinds of substitutions, namely,—the direct, which included the vulgar, the pupillary, the exemplary or *quasi* pupillary, the reciprocal and the compendious; and the fideicommissary or indirect: this latter kind may be termed a trust.

Pothier states (in his Treatise on Substitutions), that the pupillary and exemplary substitutions were not in use in the *pays coutumiers*.

A vulgar substitution was that whereby another person was substituted to the instituted heir, or universal devisee or legatee, of whatever age and quality he might be, in case he did not become heir, &c. The following is the example of this kind of substitution given by Ferrière in his *Dictionnaire*:—"Let Titius be my heir; if Titius is not my heir, let Mævius be my heir." The reason given by various writers for this kind of substitution is, that the Romans being a nation that

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showed great jealousy in respect of the performance of their last wills, invented this kind of substitution in order that if the heir instituted by the testator should fail, the person instituted in the second or other degree more distant, might gather his succession and make the will good. This kind of substitution prevailed in the *pays de droit écrit*, and was perhaps in a manner admitted in some others. But in the *pays coutumiers* the institution of an heir was good only as an appointment of a universal legatee or devisee.

A pupillary substitution was that which was made to a ward (*pupille*) by the person under whose authority the ward was, in the event of his dying before the age of puberty; it expired on the male ward attaining the age of fourteen, and the female ward attaining the age of twelve. A substitution could not go beyond that age.

An exemplary or *quasi* pupillary substitution was one that was made by parents to their children, of whatever degree, sex or age they might be, when the weakness of their intellects hindered them from making their last wills, and declared who were to be instituted as heirs to them, as in the case of spendthrifts, insane persons, &c.

A reciprocal substitution was one whereby several instituted persons were substituted to one another; for example,—"I institute or appoint Titius, Mævius and Caius as my heirs, and I substitute the one of them to the others."

A compendious substitution partook of the nature both of a direct and an indirect substitution, as in the example given by Pothier,—"I make Pierre my universal legatee, and I substitute Paul to him." By this kind of substitution Paul was not only called to succeed in case Pierre should not gather the inheritance or property, but even if Pierre should succeed to it, he was bound (*grevé*) to remit it to Paul at his death.

A fideicommissary or indirect substitution was one whereby a person was appointed to succeed to another after the death of the former; as for example,—"I appoint Pierre to be my heir or my universal legatee; and my will is, that he remit the same after his death to Paul." This is the example of a fideicommissary substitution given by Pothier. Ferrière, under the article "*Substitution fidéi-commissaire*," intimates that such substitutions could be made without giving Pierre any life interest, but making him a bare trustee or instrument for the purpose of remitting the property to Paul immediately on his obtaining possession of it. The person thus substituted took from the testator indirectly only.

Substitutions of both kinds, direct and indirect, were either simple or gradual. A simple substitution contained only one degree, as in the instance above given of the substitution of Paul to Pierre. A gradual substitution might contain degrees *ad infinitum*: in the example given by Pothier—"I substitute Paul to Pierre, and I substitute Jacques to Paul, and Christophe to Jacques"—there are three degrees. By the ordinance of Orleans (of 1560, which was prospective only), article 59, all gradual substitutions, whether contractual or testamentary, were reduced to two degrees besides the institution; and by the ordinance of Moulins (1566), article 57, those substitutions which were made before the ordinance of Orleans were reduced to four degrees besides the institution. The ordinance of 1747 (art. 30) on substitutions appears to have made no alteration in this respect.

Substitutions might be made on some condition,—as that the substituted person should assume the name and arms of the creator of the substitution; or

on a contingency, as "if the instituted heir should die before the age of twenty-eight years;" or it might be made in tail male.

The heir or universal legatee could not alienate the substituted property.

Substitutions testamentary might be made by all persons that were capable of making a will; and substitutions contractual (that is, by donation) might be made by all persons that were capable of making donations. Those persons who were capable of taking by will or by deed, were respectively capable of being substituted; and all those persons who were incapable of receiving by will, could be *grevés* or charged with substitutions, that is, could be made trustees.

With respect to the property that might be substituted, it may be observed, that a person might substitute his *acquêts* (see *supra*, "ACQUÊTS"), one-fifth of his *propres* (see *supra*, "PROPRES,"), and of his child's *légitime*, in the case of dissipation on the child's part, but under the following conditions: that the child's dissipation should be expressly mentioned; that he (the child) should have the usufruct of his legitimate portion; that the capital or property itself should be left to the child's issue.

Substitutions were required to be published and registered, in order that those persons whose property was substituted might not fraudulently borrow money on property in which they had only a life estate. Publication and registration were to be made in the royal bailiwick or seneschalsy where the property was situated, and also in the royal bailiwick or seneschalsy within whose jurisdiction the maker of the substitution resided. When the substituted property was partly in one bailiwick and partly in another, publication and registration had to take place in every bailiwick (so far only as concerned the part comprised within the same) in respect of the portion situated within the jurisdiction of the bailiwick.

If the substitution was made by will, the publication and registration took place, in respect of the abode of the maker of the substitution, in the court of the bailiwick within the jurisdiction of which the testator was resident at the time of his death; and if the substitution was by act *inter vivos*, the court of the bailiwick within the jurisdiction of which was the residence of the person creating the substitution, at the time of the creation, was the court in which such publication and registration were to take place. Publication was made by the registrar of each bailiwick in open court on a *jour d'audience*, and in a loud and clear voice; after which he caused the substitution to be entered in full in a register kept for that purpose.

The opening and reading in court of a will found sealed up after the death of a testator, would not operate as a publication of a substitution made in the same will. See *infra*, "WILLS."

Substitutions made by acts *inter vivos* were to be published within six months from the day of their being made (*passées*), in which case they took effect from the day of their date. But if publication took place after the six months, they took effect only from the day of their registration.

The publication and registration of substitutions made by testamentary dispositions (*dispositions de dernière volonté*) ought to be made within six months from the day of the testator's death; but they might be made after the expiration of the six months, in which case the substitution would only take effect, against creditors and *tiers-acquereurs*, from the day on which the above formalities were complied with, and could not be opposed to those who had

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entered into contracts before that day.—See the ordinance on Substitutions (1747), tit. 2.

The opening of a substitution took place by the happening of the condition or contingency under which the testator created it.

If no condition or contingency was attached to the substitution, it was opened on the death of the testator.

TRAITÉ DES INSTITUTIONS ET DES SUBSTITUTIONS CONTRACTUELLES, par Eusèbe de Laurière, &c. 2 vols. 12mo. Paris, 1715.

A Treatise on Institutions and Contractual Substitutions of Marriage, by Eusèbe De Laurière.

QUESTIONS CONCERNANT LES SUBSTITUTIONS, avec les Réponses de tous les Parlements et Cours Souveraines du Royaume, &c., recueillies par Vaquier. 4to. Toulouse, 1770.

Questions on Substitutions, with the Decisions of the various Parliaments and other Sovereign Courts on the Subject, and the Remarks of the Chancellor D'Aguesseau on the same Decisions; collected by Vaquier, an advocate.

TRAITÉ DES SUBSTITUTIONS FIDÉICOMMISSAIRES, &c., par Thévenot d'Essaule de Savigny. 4to. Paris, 1778.

A Treatise on Fideicommissary Substitutions, both according to the Roman and the French Laws, with Remarks on the Ordinance of Substitutions (1747), by D'Essaule de Savigny.

Thévenot d'Essaule de Savigny was an advocate in the parliament of Paris, and was appointed attorney-general in the temporary Superior Court of Blois, in 1771.

See the works of Ricard, *ante*, p. 151, and of Furgole, *ante*, p. 159, and also Pothier's treatise on the subject, noticed *ante*, p. 168 —See also *supra*, "INSTITUTION OF HEIR."

Mr. Purton Cooper, in his work mentioned *ante*, p. 279, describes Substitutions as forming the most extensive and intricate portion of the jurisprudence of old France. The reader will find, at pp. 22—30 of that work, some valuable remarks on the subject.

SUCCESSIONS.

By the term succession was meant the right of succeeding to the property of a deceased person. This right arose in two ways, first, by virtue of a will or testamentary disposition, that is, by devise or bequest, in the *pays coutumiers;* and by the institution of an heir or heirs in those provinces that were governed by the Roman law, which institution was there termed "*succession testamentaire.*" Secondly, by virtue of heirship, or, as it was termed in the *pays de droit écrit*, "*succession légitime*" or "*ab intestat,*" and, in the *pays coutumiers*, "*succession légitime.*"—See *supra*, "INSTITUTION CONTRACTUELLE."

According to the practice of the Roman law in the *pays de droit écrit*, there were three kinds of persons or *héritiers legitimes*, who succeeded to the property of a deceased person, that is, of one dying intestate,—namely, his descendants, his ancestors (*ascendans*), and his collaterals.

With regard to the first kind of persons, all the children and their issue, whether born in marriage or legitimated, succeeded to their fathers and mothers and other ancestors, without distinction of male or female, or of elder or younger children. They succeeded *per stirpes* and not *per capita*, (see the articles "*Succéder par souches*," and "*Succeder par testes*," in Ferrière's *Dictionnaire*), when they were in unequal degrees, because representation took place *in infinitum*.

The second kind comprised the ancestors of the deceased, namely, his father and mother, grandfather, grandmother and other ancestors, who were called to the succession, in default of descendants and to the exclusion of collaterals. The brothers and sisters of the deceased were however admitted to succeed to him jointly with his father and mother, provided they were of the whole blood (*double lien*). Representation did not take place in a direct ascending line.

The third kind consisted of the collaterals, who succeeded to the deceased's property, for want of descendants and ancestors by the right of kinship, and without difference of sex or eldership. The nearest relation (collateral) succeeded to his property, and if there were several of such relations in the same degree, they divided the property equally among them. There were however exceptions to this rule, which may be seen in the article "*Succession légitime selon le Droit Romain*," in Ferrière's *Dictionnaire*.

According to the rules established in the *pays coutumiers* in regard to successions, there were three kinds of legal successions, namely, the succession in the direct descending line—the succession in the direct ascending line—and the succession in the collateral line.

The succession in the direct descending line was given by the *coutumes* to the children and other descendants of the deceased in equal portions (except as before mentioned under the headings "PRÉCIPUT" and "PRIMOGENITURE)," and representation took place *ad infinitum* in this order of succession; so that the descendants succeeded *per stirpes*, and not *per capita*. Exceptions however to the disadvantage of females were made to this rule by several of the *coutumes*.

The father and mother, grandfather and grandmother and other ancestors, succeeded in the ascending line. They excluded both the brothers and sisters in respect of moveables, and also in respect of *acquêts* and *conquêts* (see *supra*, "ACQUÊTS" and "CONQUÊTS"), because those kinds of property not being specially attributed to the paternal or maternal side, belonged to the nearest heir—and because the father and mother (as Ferrière observes, article "*Succession légitime selon le Droit Coutumier*") were nearer to him than his brothers and sisters. But with regard to *propres* (see *supra*, that article), the father and mother and other ancestors did not succeed to their children in respect of them, unless it was to the immoveable property which had been given to such children by their fathers and mothers, by way of advancement.

As to the collaterals, they succeeded in default of the descending and ascending lines; and the nearest of them succeeded, to the exclusion of the farthest in degree. Representation appears not to have been generally favoured in this line. All females did not succeed to fiefs *en pareil degré*. Brothers and sisters succeeded to one another jointly and equally in respect of moveables and *acquêts*; a difference however existed in the various *coutumes* touching the succession to these kinds of property.

According to the rule "*Paterna paternis, materna maternis*," which prevailed in the *pays coutumiers*, property derived from the father's side went to the paternal heirs; and the property coming from the mother's side went to the

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heirs on her side. The property alluded to here was that kind of property called *propres;* and the above rule was established for the purpose of preserving it in the branch of the family from which it originally came. And this rule appears to have prevailed in the *pays coutumiers* (though with certain variations) from a very early period; it did not however prevail in the *pays de droit écrit*, succession to *propres* being unknown in those *pays*.

This rule of the customary laws required, that in the succession of an individual who left only collateral heirs, the *propres* should belong to that side whence they came to the deceased, without paying any attention to the degree of heirship which might be found in a relation of the side from which the property did not proceed.

Propres belonged then to the nearest relation of the side and line whence they came, although such relation might be more remote in degree than other relations of the deceased of the other line.

The rule could not be applied in respect of the direct line, because the descendants succeeded, without distinction, to all the property of their ancestors, whether such property consisted of *propres, acquêts*, or moveables, to the exclusion of other heirs: the rule therefore could only apply to cases of death without direct heirs.

A difference existed in respect of this rule in the various *coutumes*.

For further information on this head, see in Ferrière's *Dictionnaire*, the articles "*Coté et Ligne*," "*Estoc*," "*Ligne*," "*Coutumes d'Estoc et Ligne*," "*Paterna paternis et materna maternis*," and "*Propres*." See also Omer Talon's 34th *Plaidoyer, ante*, p. 147, and the works of Renusson and Le Brun, *ante*, p. 154, and of Pothier, No. 26, *ante*, p. 169.

It may be proper to notice here the well-known rule *Le mort saisit le vif* [*son heir plus proche et habile à lui succéder*]. This axiom of the customary laws meant, that the heir was seised of the property (both moveable and immoveable) of his father or other ancestor, immediately on such ancestor's death, without the necessity of an actual seisin or taking possession of the property (*sans appréhension du fait*). Every legatee was therefore obliged to ask of the heir *du sang*, the delivery of his legacy, and that even if he had already taken possession of it.

No hotchpot (*rapport*) took place as between collaterals, either in respect of *acquêts, propres*, or fiefs.

Children might be disinherited by their parents for a just cause, as marrying without consent, being spendthrifts (*dissipateurs*), &c.: this disinheriting could take place both in the *pays coutumiers* and in the *pays de droit écrit*.

Children might be excluded from the succession of their parents by "*prétérition;*" this term meant a passing over, or an omission of an individual in a will, whom it was not allowable to pass over without just cause.

This omission occurred in two cases, the one when a father omitted to mention his son (heir) in his will; and the other when a son omitted to make mention of his father or mother or other ancestor in his will.

The institution of an heir or heirs, in the sum of five sous, was sufficient, according to the practice of some parliaments, to cover the *prétérition*, and hinder the child who had been instituted by his father from impeaching his will, as being inofficious; it only left him the right of demanding the *supplément* of his *légitime*, that is, the *quantum* of property which was required to make up such child's legal share of property (*légitime*), and which deficient part the child

could claim against the property out of which it was forthcoming, in order to make up the full legal portion or share.

The succession, styled *unde vir et uxor*, prevailed both in the *pays coutumiers* and in the *pays de droit écrit*, by virtue of which the survivor of husband and wife succeeded, to the exclusion of the fisc.

With regard to the succession to the property of bastards, foreigners (*aubains*) and condemned persons, the following practice prevailed:—First, in respect of bastards. If a bastard died without having made a will, and without leaving children born in marriage, the succession belonged either to the king or to the *seigneur haut-justicier*, according to the regulations existing touching such cases. Secondly, in respect of *aubains*, the right of succeeding to such foreigners as died without children born in wedlock belonged to the king; and the king also succeeded to the property of such foreigners (though naturalized) as had not disposed of their property by acts *inter vivos*, or by will, and who also left no relations, either natives of the country or naturalized persons. Thirdly, as to the property of criminals or condemned persons, the king or the *seigneurs hauts-justiciers*, as the case might be, succeeded to their property. Confiscation took effect from the day of the condemnation, and not from the time when the crime was committed.

Survivorship or accruer (*accroissement*) took place between co-heirs and co-legatees.

In respect of mothers succeeding to the property of their children in the *pays de droit écrit*, see the *Édit* of August, 1729, which abrogated the "*Édit des Mères*" of 1567, in the "*Recueil des Anciennes Lois Françaises*," under the year 1729.

All persons, being natives of the kingdom, unless legally incapacitated, and all foreigners naturalized by letters-patent of the king, and duly registered, and also foreigners who had served twenty years in the navy, might transmit their succession or property. Persons who had taken the vows, *aubains* generally, persons who had lost the right of citizenship, and *serfs mortaillables*, were debarred this privilege.

The persons who could succeed to property are classed by Pothier (Sect. 2, Chap. 1) under three headings,—namely, those who were *in esse* at the opening of the succession; those who had the enjoyment of the civil *status*; and thirdly, those who were relations of the deceased in the degree required by law.

The opening of a succession happened either by the natural death of an individual, or by his civil death. It was quite sufficient if the person entitled to the inheritance was *in ventre matris* only at the time of the opening of the succession, and not actually born.

In respect of the division of the property of a deceased person among the co-heirs, &c., this took place in the presence of the judge of the place where the deceased died. The judge, however, at times sent the parties to a certain notary, to have the division made.

In divisions of property, the moveables were regulated by the law of the domicile of the deceased; but the immoveables were regulated by the law of the place where they lay.

TRAITÉ DU DROIT DE REVERSION; par M. Cosme Bechet. 8vo. Saintes, 1647.

A Treatise on the Right of Reversion, by Bechet.

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TRAITÉ DE LA REPRÉSENTATION DES FILLES EN LA SUCCESSION DES FIEFS, suivant la Coutume de Paris; par Jean Duboys. Plus un Traité d'entre le Neveux et l'Oncle, &c. 4to. Paris, 1660.

A Treatise on Succession to Fiefs through Women according to the Customary Laws of Paris, by Duboys.

The last work is a *factum* by Jacques Cholet.

FR. BARRI TRACTATUS de Successionibus Testati et Intestati. Fol. Lyons, 1670.

A Treatise on Succession to Property, by Will or Intestacy, by François Barri or Barry.

TRAITÉ des CONVENTIONS de succéder, ou Successions Contractuelles; par Boucheul. 4to. Poitiers, 1727.

A Treatise on Agreements as to Successions, &c., by Boucheul.

The author was an advocate in the royal tribunal at Dorat. He wrote a commentary on the *coutume* of Poitou.

TRAITÉ DE LA REPRÉSENTATION DU DOUBLE LIEN, et de la Règle "Paterna Paternis, Materna Maternis," par rapport à toutes les Coutumes de France; par M. François Guyné, Avocat. 4to. Paris, 1727.

A Treatise on Representation in respect of the whole blood, and of the rule "*Paterna paternis, materna maternis*" (see *ante*, p. 373), in relation to all the customary laws of the kingdom; by Guyné, an advocate in the parliament of Paris.

TRAITÉ DE LA SUCCESSION DES MÈRES, en Vertu de l'Édit de St. Maur, &c.; (par le Président Bouhier.) 8vo. Dijon, 1728.

A Treatise on the Succession of Mothers to their Children's Property, by Virtue of the Edict of 1557, by Bouhier.—See *ante*, p. 375.

TRAITÉ DE LA CRUE DES MEUBLES AU-DESSUS DE LEUR PRISÉE; par Boucher d'Argis. 12mo. Paris, 1741.

A Treatise on the Increase in the Value of Moveable Property (of a Deceased Person) above its estimated Value at the Time of its Appraisement, by Boucher d'Argis.

By the term "*Crue des Meubles*" was meant an increase in the value of the property of a deceased person, arising after such property had been estimated in the inventory of his effects, &c. The *crue* or increase formed at times a very considerable item in respect of successions.

TRAITÉ SUR LA RÉVOCATION ET NULLITÉ DES DONATIONS, Legs, Institutions, Fidéicommis et Élections d'Heritier, par l'Ingratitude, l'Incapacité et l'Indignité des Donataires, Héritiers, Légataires substitués et élus à une Succession; par M. de la Rouvière. 4to. Toulouse, 1738.

A Treatise on the Revocation of Gifts, Legacies, &c., through the Ingratitude, &c. of the Donees, by De la Rouvière.

TRAITÉ DES SUCCESSIONS, conformément au Droit Romain et aux Ordonnances du Royaume, contenant ce qui concerne les Successions ab Intestat, les Légitimes, Héritiers, Héritages, Bénéfices d'Inventaire, Testamens, Legs, Substitutions, Fidéicommis, Quartes Falcidie et Trébellianique, Viriles, Portions Viriles, Institutions Contractuelles et Droit de Réversion et Retour; par feu Mr. de Montvalon, Conseiller-Clerc au Parlement de Provence. 2 vols. 4to. Paris, 1780.

A Treatise on Successions or Inheritances, according to the Roman or Civil Law, and the Ordinances of the Kings of France, &c., by Mr. de Montvalon, an ecclesiastical counsellor in the parliament of Provence.

The work is divided into eleven chapters, which are subdivided into articles. There is a preface and an analytical index of matters. Each volume has an index of chapters and articles.

Chap. 1. Of succession to the property of an intestate; 2. Of the *légitime* (the lawful portion of children); 3. Of heirs and inheritances; 4. Of heirs with the *bénéfice d'inventaire*, &c.; 5. Of wills, codicils and donations *mortis causâ*; 6. Of legacies; 7. Of substitutions and *fideicommissa* (trusts); 8. Of the fourth parts or shares, called the Falcidian and Trebellianic portions; 9. Of the share of an inheritance which falls to the father and mother of a deceased child; and of the share (*portion virile*) of the survivor of the husband and wife, and of the children, in the acquisitions made during the marriage (*gains nuptiaux*); 10. Of donations on account of marriages (*institutions contractuelles*); 11. Of reversions, &c.

TABLEAU DE TOUTES ESPÈCES DE SUCCESSIONS régies par la Coutume de Paris; et Computation des Degrés de Parenté, suivant le Droit Civil et le Droit Canon. Par M. C. 8vo. Paris, 1785.

A Treatise on Successions, according to the Customary Laws of Paris; and the Computation of the Degrees of Kinship, &c. according to the Roman and Canon Laws.

TRAITÉ DES SUCCESSIONS LÉGITIMES, par Duvergier. 2 parts in 1 vol. 12mo. Paris, 1785.

A Treatise on Legal Successions, by Duvergier.

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See *ante*, p. 148, and also Le Brun's works, *ante*, p. 154; Pothier's works, No. 22, *ante*, p. 167; and D'Espeisse's works, *ante*, p. 173.

SURVIVORSHIP.

See *supra*, "SUCCESSIONS."—See also Le Brun's treatise on that subject (pp. 4, 5), for some curious cases on presumed survivorship between persons perishing together by shipwrecks, &c.

TAXES.

The taxes levied in France a short time previously to the Revolution were the Aids, the *Gabelle*, the *Taille*, the *Vingtième*, and the Capitation tax.

Aids (*aides*). This word meant, in an enlarged sense, all the revenues derived from the *gabelle*, the *taille*, tenths, and the duties on provisions (*denrées*) and merchandize. In a more confined sense it signified the duty payable on the export and import of merchandize; the duties payable on wines, cider, beer, and other liquids; the duty on cattle, sheep, &c. entering Paris and other cities; also duties on various other articles. All persons were liable to these duties. This branch of the revenue was called the *Régie*.

The *Gabelle*. This was both a government monopoly of the manufacture of the salt consumed in the kingdom, and also a tax, as every individual (with the exceptions after mentioned) was compelled to take a certain quantity of salt at the *grenier à sel* which was the nearest to his place of residence. The price was fixed by the government; and the sale of the article was farmed to persons styled the *fermiers-généraux*, who bought the salt at the manufactories at a fixed price, paid the king's dues, and sent the salt to the *greniers* established by the king, whence it was dealt out to the people by clerks, &c., who were appointed for that purpose. See "COURTS OF LAW," *ante*, p. 222. The price of the salt differed very considerably in various places; some places, where a high price was paid, were called *pays des grandes gabelles*; and the others, where salt was sold at a lower price, were called *pays des petites gabelles*. Denisart, in his *Collection de Décisions*, &c., states, on the authority of Piganiol de la Force, that this tax was introduced into France in 1244. The earliest mention of the salt *gabelle* in the *Anciennes Lois Françaises* is an ordinance for its abolition, dated in 1318. The *gabelle* formed three out of the five great farms of the revenue.

The royal letters of the year 1342 (by Philippe-de-Valois), establishing the jurisdiction of the *greniers à sel*, and for the maintenance of the salt monopoly, gave rise to the facetious remark of King Edward III., that Philippe was the author of the *Salic law*. The name of *gabelle* was also given anciently to taxes on wine, cloths, drugs, spiceries, &c., but at length the term was applied only to the salt tax or monopoly.

Some of the provinces and *pays*, as Poitou, Saintonge, the *pays* d'Aunis, Périgord, La Marche, L'Angoumois, Upper and Lower Limousin, the county of Bourbonnois, the town of Calais and the conquered countries, were free from this duty, and were on that account called the *pays redimés*, or *pays de franc-salé*. This exemption, except in the case of the town of Calais, was purchased from Henri II. Auvergne, Guienne, and Brittany, were also exempt from this duty or tax. It is stated also by Denisart, in his *Collection de Décisions*, article "*Gabelles*," that in certain provinces and places there were some *greniers* (called voluntary), where the people might take only what quantity of salt they pleased. The nobility and clergy were not exempt from this tax.

The *Taille.* This tax was probably so called because the collectors had tallies of wood on which they marked (by way of acknowledgment or receipt) what each person paid as his proportion of this tax. This tax was paid by the *roturiers* only. The nobility (unless engaged in trade), the clergy, the citizens of Paris and other free cities (they paid other dues instead); the officers, &c. of the sovereign courts, presidial courts, seneschalsies or bailiwicks, *prévôtés*, &c., waters and forests, *élections*, *greniers à sel*, and of all the other royal jurisdictions; the *commensaux* of the royal household, &c.; the widows of certain officers, during their widowhood; and the parents of twelve children; were all severally freed from this tax. But by an edict dated in 1667, the nobility, clergy, privileged officers, and bourgeois of Paris, could only have one farm in hand, in the same parish; and they were compelled to lease their other property in other places to persons who were liable to the payment of the *taille.* In Brittany it was thought derogatory to the nobility to be engaged in trade. This tax was formerly levied with the advice and consent of the States-General, but in the later times of the monarchy it was levied by the sole authority of the king.

The *Taille* was three-fold,—namely, real, personal, and mixed. The real *taille* was payable by the *roturiers*, on account of their real property; the personal *taille* was levied on income arising from trade and industry. The mixed *taille* (that is, real and personal) was payable by the cities that were not free, and the towns and villages, and included property of every kind. The manner of assessing and collecting the *taille* will be found in Ferrière's *Dictionnaire*, article "*Taille.*"

The *Vingtième.* This was a tax levied on all kinds of property. The clergy were exempt from this tax, but their *don gratuit* was increased by them as a return for such exemption.

The Capitation tax. This was a tax payable by every individual in the country. The only persons that were exempt from the payment of this tax were the foreign ministers, their officers and servants; poor persons, and others that were incapable of gaining their livelihood, &c. Foreigners, after a residence of six months, were liable to this tax.

Certain portions of the public revenues were at one time farmed by a company of persons (who were styled *fermiers généraux*), for which they engaged to pay into the treasury a fixed sum. By a decision of the council in 1780 on this subject, three companies were created instead of the one company. The first of the new companies, under the name of the *ferme-générale*, was charged with the recovery of the duties on imports and exports. The second company, under the name of the *régie générale*, was charged with the collecting of the duties levied on spirituous liquids, and on the manufacture of certain articles for trade. A portion of these duties, called aids, then formed part of the *ferme générale;* and another, under the name of *droits réservés*, or *droits réunis*, was then administered by the *régie générale.* The third company was styled the *administration générale des domaines et droits domainaux.* At that time part of this administration was confided to the administration of the domains, and the other to the *ferme générale.*

It may not be improper to notice here the amount of the revenue and the expenditure of the kingdom in the year 1789, as stated in Neckar's report of the "ways and means" for that year:—the receipts were 475,294,000 *livres*, and

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the expenses were 531,440,000 *livres*, thus leaving a *deficit* of nearly 60 millions of *livres*. Of this revenue the *taille*, the *vingtième*, and the *capitation* or poll tax, produced more than one-third. In 1785 the *deficit* was only about 12 millions of *livres*.—See *ante*, p. 365.

PARIS SOUS PHILIPPE-LE-BEL; la Taille de Paris en 1292. Publié par Géraud, &c. 4to. Paris, 1837.

An Account of the *Taille* in Paris in 1292, by Géraud, an Advocate.

TRAICTÉ DES TAILLES, et aultres Charges, et Subsides, tant ordinaires, que extraordinaires, qui se levent en France; par Jehan Combes, Conseiller, &c. 12mo. Paris, 1575.

A Treatise, by Combes, an Advocate, on the Taxes, &c. of France, and of the Officers for collecting them.

The chief subjects treated on are:—the origin of taxes generally, the different officers for collecting them; the introduction of taxes in France; the exemptions of the clergy, nobility, *gendarmes*, moneyers, minors, physicians, and numerous others; various taxes named, as the *taillon*, *creüe*, *aydes*, *gabelles*, *l'equivalent*, &c. There is a dedication, an address to the reader, and an index, &c.

MAXIMES GÉNÉRALES SUR LES TAILLES, AYDES ET GABELLES de France (par M. De Merville). 12mo. Paris, 1715.

Maxims on the Taxes of France, by De Merville.

CODE DES TAILLES. 3 vols. 12mo. Paris, 1761—83.

The Code of *Tailles*, being a Collection of Ordinances, &c. touching the *Tailles*.—There is a supplement, in 3 volumes.

To this work is generally appended another on the farming of tobacco, which is called the *Code de Tabac*.

TRAITÉ SUR LES TAILLES et les Tribunaux qui connaissent de cette imposition; par Auger. 4 vols. 4to. Paris, 1783.

A Treatise on *Tailles* and the Tribunals that took cognizance of them, by Auger.

The first three volumes contain the laws on the subject down to 1785. See D'Espeisses' works, No. 6, *ante*, p. 174.

TRAITÉ GÉNÉRAL DES DROITS D'AIDES; par Lefebvre de la Bellande. 4to. Paris, 1760.

A Treatise on Aids, by De la Bellande.

DICTIONNAIRE DES AIDES; par Brunet de Grandmaison. 8vo. Paris, 1778.

A Dictionary of Aids, by De Grandmaison.

DE L'ADMINISTRATION PROVINCIALE, ET DE LA RÉFORME DE L'IMPÔT. 4to. Basle, (Paris), 1799.

A Treatise on the Administration of the Provinces, and of Reforms in the System of Taxation, &c., by Guillaume-François Letrosne, who was

born at Orleans on the 13th October, 1728, and died at Paris on the 16th May, 1780.

See the 2nd volume (*Jurisprudence*) of the *Catalogue des Livres imprimés de la Bibliothèque du Roi*, for other works on the subject of taxes.

See also, "COURTS OF LAW," *ante*, p. 217.

TITHES.—See *supra*, ECCLESIASTICAL LAW.

TRÉSOR DES CHARTES.

This was the *depôt* of the national records, charters, &c. The records, &c. are now placed in the archives of the kingdom at Paris. The *Trésor des Chartes*, according to the preface to the first volume of the *Anciennes Lois Françaises* (in which are given many particulars on the subject), is divided into two parts, the first comprising original documents; and the other, copies (*registres*) of all the original pieces that could be recovered. These latter end at the reign of Henri III. It appears that all the documents relating to the domains and revenues of the crown were taken by Richard I. of England, in a skirmish at Fréteval between him and Philippe-Auguste, king of France, in 1194. Mezeray says that the booty taken by Richard on this occasion consisted of gold, silver, furniture, the seals, charters and records, which the king carried about with him. It appears to have been a custom for the kings to carry the records about with them. Hénault says that all his (that is, Philippe-Auguste's) archives were taken on this occasion, and adds that this loss was the occasion of establishing the *Trésor des Chartes*, which took place, or at least was begun, during his reign. Rapin states that all the *ancient records of the crown* were taken.

MÉMOIRE HISTORIQUE SUR LE TRÉSOR DES CHARTES, et sur son état actuel (1758); par M. Bonamy.

An Historical *Mémoire* on the *Trésor des Chartes*, by Bonamy.

This *mémoire* will be found in the 30th volume of the *Mémoires de l'Académie des Inscriptions et Belles-Lettres*, p. 697.

Another *mémoire* by Bonamy, on a register of the *Trésor des Chartes*, will be found in the 37th volume of the same *Mémoires*, p. 443.

Pierre-Nicolas Bonamy, an eminent literary man, was born about the year 1694, and died in 1770. He composed numerous dissertations, which are inserted in the volumes of the *Mémoires de l'Académie des Inscriptions et Belles-Lettres*.

Other *mémoires* on this subject will be found in the same collection of *Mémoires*, namely, in the 16th volume, p. 165; and in the 43rd volume, pp. 669, 693. There is a *mémoire*, connected with this subject, contained in the 37th volume, by M. de Bréquigny (see *ante*, p. 244), who was commissioned by the French government to go to London in 1764, for the purpose of searching, in the public depositories in that capital, for all documents that related to the ancient possessions of the crown of England in France. On his return, he composed the *mémoire* above mentioned, which contains an interesting account of his labours while in London. A few remarks on the subject of the French national records will be found in the introduction (pp. 3, 4) to the first volume of Mr. C. Purton Cooper's work, entitled "An Account of the most Important

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Trésor des Chartes.

Public Records of Great Britain, and the Publications of the Record Commissioners, &c." in 2 vols. 8vo. London, 1832.

In the year 1743, Mr. Thomas Carte, an English historian, published (in French) a catalogue of documents relating to various provinces in France, while under the dominion of England. This work was printed in London (Paris) in 2 vols. fol. 1743. The title is "*Catalogue des Rolles Gascons, Normans et François, conservés dans les Archives de la Tour de Londres,*" &c. In the preface to the first volume, Mr. Carte states that the most important charters relating to the duchies of Normandy and Guienne, and the other possessions of England in France, were carried to London, because the Exchequer of that city had the superintendence over all the countries in France depending on the crown of England; and that authentic copies of some of them were sent into the above-mentioned provinces. He adds that when these various provinces were re-annexed to the crown of France, the original records remained in England, and were preserved in the archives of the Tower of London.

The first volume contains a catalogue of the Gascon and Norman rolls, which relate to Guienne, Gascony, and other provinces. The earliest of the Gascon rolls is dated in 1241—42, and the latest in 1460. The earliest of the Norman rolls is dated in 1200—1, and the latest in 1422.—The second volume contains what Carte calls the "*Rolles François,*" which relate also to Guienne, Gascony, and the other provinces, and also to Calais. The earliest of the rolls noticed in the second volume is dated in 1231—32, and the latest in 1483.

In the year 1835 was published in London, in an octavo volume, a portion of the rolls of Normandy, as preserved in the Tower of London. This work was published under the direction of the "Commissioners on the Public Records of the Kingdom [England]," who were originally appointed in the year 1800, for the preservation and arrangement of the records of the kingdom, and for the publication of some of them. The commissioners, during their continuance in office, published several works of considerable value and importance. An ample account of these records, and of the publication of them by the commissioners, will be found in the before-mentioned work by Mr. Cooper, who was secretary to the commissioners. This collection comprises rolls for the years 1200—5, and for the years 1417—18. It consists of one volume only, which is all that has been published. Another volume would probably have completed the collection, and have comprised the four remaining years. This volume has a preface and two indices. The title of this collection, which was edited by Mr. Duffus Hardy, is "*Rotuli Normanniæ in Turri Londinensi asservati, Joanne et Henrico Quinto Angliæ Regibus,*" &c.

In 1840—44, was published in London (in 2 vols. 8vo.), by the "Society of Antiquaries" of London, another collection of records relating to Normandy, under the title of "*Magni Rotuli Scaccarii Normanniæ sub Regibus Angliæ,*"—the Great Rolls of the Exchequer of Normandy under the English Kings. This collection was edited by Mr. Thomas Stapleton. It concerns the revenues of the dukes of Normandy (kings of England) in the reigns of Henry II., Richard I. and John. A third volume, containing indices of persons and places and a glossary, was (according to the advertisement in the second volume) contemplated to be published. Each volume contains an elaborate and valuable introduction, under the title of "Observations on the Rolls of the Norman Ex-

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chequer," and an index. The records are not printed with the words in full, but with contractions like the originals.

By a royal ordinance, dated the 5th January, 1846, and consisting of sixteen articles, the archives of France are distributed into three sections, namely, the historical, the administrative, and the judicial sections. The officers are a keeper-general, three heads of sections, twelve clerks, a paymaster, and a clerk *d'ordre*. The former enactments on this subject are the laws of the 12th September, 1790; the 10th October, 1792; and the 9th *Messidor*, *an* 2; the decree of the consuls of the 8th *Prairial*, *an* 8; and the 7th article of the law of the 24th July, 1843, concerning the organization of the central administrations of the ministries.

TUTELLE.

This was the office of a *tuteur* or guardian (in Latin *tutor*), who was appointed to take care of the person and property of a minor during his minority. After the expiration of the minority, a *tuteur* might become a *curateur* (see *supra*, "CURATELLE").—*Tutelle* was of three kinds, namely, testamentary, legal (*légitime*), and dative. The testamentary *tutelle* or guardianship was that which was conferred (by will) by a testator who had the power of appointing a *tuteur*.

The legal *tutelle* was that which was conferred by the law, in default of a testamentary appointment, to the nearest of kin of the ward. The eldest brother of a ward, if he was twenty-five years old, was usually the legal guardian of his younger brother, and the uncle that of his nephew, provided the mother was dead; but if she was alive, and was of irreproachable character, and not married again, then she was to be preferred, in all cases, to act as guardian.

The dative *tutelle* was that which was conferred by the magistrate (on request), in default of the testamentary and the legal appointment. This latter appointment was made by the judge of the place where the ward (*pupille*) lived.

The dative *tutelle* was the only kind of guardianship in use in the provinces that were governed by their own customary laws, except in a very few instances; some few *coutumes*, however, admitted the other two kinds of guardianship.

With regard to the testamentary *tutelle*, it is to be observed, that in those provinces and *pays* of the *droit écrit* which were within the jurisdiction of the parliament of Paris, such testamentary appointment was not always necessarily allowed; and that it had also to be confirmed by the judge of the place.

In the other *pays de droit écrit*, the *tutelle* ended when the ward (if a male) was fourteen years of age, and (if a female) when twelve years of age. The greater part of the *coutumes* followed the customary laws of Paris in respect of the ending of the *tutelle*, and continued it till the ward had attained the age of twenty-five years. Some of the *coutumes* conformed to the Roman law, and in others the *tutelle* ended when the ward was twenty years old. The *tutelle* was also at an end when the ward married or was emancipated by letters of emancipation, which were granted to minors when they were seventeen or eighteen years old.

The minor could not, under any circumstances, alienate or mortgage his property without his curator's consent, before he attained the age of twenty-five, until which age he was considered a minor.

When a *tuteur* was a debtor or creditor of his ward, it was the practice to appoint what was termed a *subrogé tuteur*, whose duty it was to prevent any

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fraud on the part of the *tuteur* in respect of such debt or credit. This second *tuteur* had no other concern with the guardianship, than in what related to the said debt or credit.

See *supra*, "CURATELLE" and "GUARDIANSHIP."

USUCAPION.—See *supra*, "PRESCRIPTION."

USUFRUCT.—See *supra*, "SERVITUDES."

WARRANTY.

TRAITÉ DES ÉVICTIONS ET DE LA GARANTIE FORMELLE, dans lequel sont traduites et discutées les Loix Romaines, &c. sur cette Matière; avec la Conférence des Ordonnances, des Arrêts Notables de France, et les Systèmes soutenus à ce sujet par les plus fameux interprètes des Droits Romain et François; par Berthelot. 2 vols. 12mo. Paris, 1781.

A Treatise (by Berthelot) on *Évictions* and Warranty, wherein the Roman Law on the subject is compared and contrasted with the Laws of France.

WATERS AND FORESTS.

LES EDICTS ET ORDONNANCES DES ROYS, Coustumes des Provinces, Reglemens, Arrests et Jugemens Notables, des Eaues et Forests. Recueillis et divisez en trois Livres, avec Observations de plusieurs choses dignes de remarque, par le Sieur de Sainct-Yon, Conseiller de Roy, Maistre des Requestes ordinaires de son Hostel. Fol. Paris, 1610.

A Collection of Edicts, Ordinances, Customary Laws, Decisions of the Courts, &c. relating to Waters, Rivers, &c. and Forests, Woods, &c. There is a dedication to the king, an address to the reader, an analytical index of the contents of the whole work, and a chronological list of the edicts, &c. The work is divided into three books; the first of which contains the edicts and ordinances; the second, the customary laws, and the third, the decisions, &c. Each book is divided into titles, which are subdivided into sections or paragraphs.—The ordinances, &c. promulgated previously to the Revolution, on this subject, are still in force in aid of the modern forest laws of France.

BOOK I. THE ORDINANCES, &c.—Title 1. Of the judges, &c.; 2. Of the officers called *maîtres enquêteurs et généraux reformateurs*, &c.; 3. Of the ordinary jurisdiction of the deputies of the same officers; 4. Of the magistrates or judges called *maîtres particuliers*, &c.; 5. Of the verderers and other officers; 6. Of the advocates and attornies, &c. in the courts having jurisdiction in these matters; 7—9. Of the registrars and other officers of the same courts, and of the guards or keepers of the forests, rivers, &c.; 10. Of the surveyors, appraisers, &c. of the forests and rivers, &c.; 11. Of the receivers and controllers of woods; 12. Of the receivers of the domain, fines,

&c.; 13. Of the controllers-general of the crown lands; 14. Of the controllers-general of the forests, and of their registrars; 15. Of the officers of forests and rivers, &c. generally; 16. Of the offices relating to this subject, which are saleable and hereditary; 17. Of the reduction of officers; 18. Of the public roads, &c.; 19. Of waters and rivers, and of the carriage of wood by water and land; 20. Of fisheries; 21. Of hunting, &c.; 22. Of the sale of wood out of the king's crown lands; 23. Of the enjoyment of woods, &c.; 24. Of woods held *à tiers et danger, et en gruërie et gruirie;* 25. Of trees blown down by the wind, &c.; 26. Of the wood required for the king's buildings, &c.; 27. Of the royal gifts of wood, &c.; 28. Of firewood for the officers; 29. Of common rights and customs in respect of woods; 30. Of pannage, mastage and pasturage; 31. Of the usufruct and alienation of woods belonging to the crown lands; 32. Of waste lands, marshes, &c.; 33. What things are prohibited in respect of forests; 34. Of fines for stealing wood, &c.; 35. Of the forests and waters, &c. belonging to the clergy, to lords, corporations or commonalties, and to private individuals.

Book II. The Customary Laws.—Tit. 1. Of waters and navigable rivers, mills, islands, alluvions, ponds and fisheries; 2. Of woods, forests, &c.; 3. What is considered moveable property, and what immoveable in respect of forests, rivers, &c.; 4. Of valuations of woods, forests, rivers, &c.; 5. Of the enjoyment of forests, rivers, &c.; 6. Of common rights in respect of the same; 7. Of pasturage, &c. in woods and forests; 8. Of pasturage in *landes*, marshes, &c.; 9. Of feedings on waste lands, &c., and of common of vicinage; 10—13. Of pasturage in meadows, arable lands and vineyards, and of feedings generally; 14. Of the capture of persons and cattle found doing damage in woods, &c., and of the fines to be inflicted for such damage; 15, 16. Of the accounts to be given by the forest-keepers and others, of the persons or cattle found doing damage; 17. Of the rescue of cattle taken doing damage; 18. Of the injury done by one person or beast to another; 19. Of the rights of herbage, *fautrages* and *préages;* 20. Of waifs, &c.; 21. Of warrens and hunting, &c.; 22. Of dove-cots, &c.; 23. Of roads, ways and wastes; 24. Of admeasurements, surveys, boundaries, &c. of woods and forests and other immoveable property.

Book III. The Decisions of the Courts, &c.—Tit. 1. Of the jurisdiction of the judges in matters concerning forests, rivers, &c.; 2. Of officers called *grands maîtres enquêteurs et généraux reformateurs*, &c.; 3. Of the courts for trying causes relating to the forests, rivers, &c.; 4. Of the magistrates or judges called *maîtres particuliers*, &c.; 5. Of the verderers and other officers; 6. Of the advocates and attornies, &c. of the above-mentioned courts; 7, 8. Of the notaries and other officers of the same courts; 9. Of the keepers of the forests, rivers, &c.; 10. Of the receivers and collectors of fines, &c.; 11—13. Of the controllers of the royal domain, surveyors and officers of the forests, rivers, &c. gene-

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rally; 14. Of the public roads; 15. Of rivers, &c., forests, mills and fisheries; 16. Of hunting, and of the captains and guards or keepers of *la chasse;* 17. Of the sale of wood out of the crown lands; 18. Of the enjoyment of woods, &c.; 19. Of trees blown down by the wind, &c.; 20. Of woods held in *gruërie* and *gruirie;* 21. Of appanagists and other tenants of woods belonging to the crown; 22. Of the fire-wood for the officers; 23. Of the common rights and customs in respect of woods, &c.; 24. Of pasturage; 25. Of pannage, mastage, &c.; 26. What things are prohibited in respect of forests; 27. Of forests, rivers. &c. belonging to the clergy and others; 28. Of the registration of the regulations, decrees, &c. relating to forests.

The principal ordinance respecting the waters and forests is the ordinance of 1669, which will be found in the 18th volume of the *Recueil des Anciennes Lois Françaises.* See also in the Modern Part of this division of the Catalogue, among the Treatises, the heading "WATERS AND FORESTS."

WIFE.

It may be convenient to notice and explain under this heading the power of the husband over the wife's property, both in the *pays coutumiers* and in the *pays de droit écrit*, in respect of her *dot*, that is, the property brought into the marriage either by herself, or by her relations or friends on her behalf, and also in respect of her paraphernalia. With regard to the property held in common between them, see the heading "*Communauté de Biens*" in the Repertories and Dictionaries; and also the works of Le Brun, *ante*, p. 154; and Pothier's, No. 20, *ante*, p. 166.

With respect to the wife's paraphernalia, she had, in all the provinces that were governed by the Roman law (except in those which were within the jurisdiction of the parliament of Paris), the full and complete ownership over them; and she could mortgage or alienate them as she thought proper, without the consent of her husband. In respect of her dotal property, the husband could dispose of the income of it; but not of the principal or *fonds*, that being inalienable.

In those *pays* of the *droit écrit* which were within the jurisdiction of the parliament of Paris, the wife could not enter into any contract without her husband's consent, either in respect of her *dot* or her paraphernalia. If the wife's paraphernalia consisted of moveable property, it was necessary to give a description of it in the marriage contract, or make an inventory of it, in order to avoid the presumption arising by law, that all the moveable property belonged to the husband, unless proof could be shown to the contrary.

In the *pays coutumiers*, it was usual to insert a clause in the marriage contract, declaring that there should be no community of property between the intended husband and wife; or the paraphernalia were valued at a price agreed on by the parties. After the dissolution of the marriage, the husband was compelled to restore not only the property constituting the paraphernalia, but also the income of the property (whether it consisted of immoveables or of debts, &c., *dettes actives*). If the husband spent the income of his wife's paraphernalia in support of his family, he was not accountable for it. In general the husband had the precaution to take receipts from his wife, on account of the income of her

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paraphernalia. In the *pays coutumiers*, the wife generally brought all her property *en dot*, and gave the enjoyment of it to her husband, in order to defray the charges of their establishment.

The wife therefore reserved to herself no income out of her property, unless she and her husband had agreed by marriage contract that there should be no community of property between them, and that she should enjoy her property, she granting a certain allowance to her husband to defray the expenses of their establishment. In case of a community of property between the husband and wife, all the money, moveables, &c. of the wife fell into the common property, unless a stipulation was made to the contrary.

It may be added, that the wife had a lien or tacit mortgage (*hypothèque*) on her husband's property in respect of her paraphernalia. She had also, in respect of her *dot*, a tacit mortgage on the immoveable property belonging to her husband before the marriage. And the husband and his heirs were obliged to restore the *dot* immediately after the dissolution of the marriage, and to pay interest on the same from that time. The person who made the settlement (*dot*) on the wife might stipulate that it should be returned to him or his heirs. By some of the *coutumes*, the husband appears to have been able to alienate the principal or *fonds* of the dotal property, so as to bind both her and her heirs, provided that he obtained her consent and authorization for such an act.

Wills or Testaments.

The compiler proposes to make some remarks on this subject, and to arrange them under the four following headings, namely:—I. The different kinds of wills in use before the Revolution in 1789, and the formalities attending each kind; II. What persons might make wills, and who might take under them; III. What property might be disposed of by wills; IV. Of the opening of wills, and the incidental matters connected therewith.

I. *The different kinds of Wills in use before the Revolution in* 1789, *and the Formalities attending each kind.*

Previously to the publication of the ordinance on wills in the year 1735, there were various kinds of wills allowed to be made, both in those provinces which were governed by their own customary laws and in those which followed the Roman law. The following is a list of the principal, if not the whole of them: 1. The solemn will; 2. The olograph will; 3. The mystic will; 4. The nuncupative will; 5. The will *inter liberos;* 6. The mutual will; 7. The common will; 8. The will of a dumb person; 9. the will of a blind person; 10. The will of a soldier (*testament militaire*); 11. The maritime will; 12. The will made in time of plague; 13. The will "for pious causes;" 14. The will *apud acta;* 15. The rustic will; 16. The will by signs; 17. The will by letters missive. To these may be added the wills called "inofficious" and "*ab irato;*" the former of which was a will whereby the testator passed over or disinherited those who were his natural heirs; and the latter, one whereby a testator, out of motives of anger, disinherited his natural or presumptive heirs.

Of all the above-named wills, those numbered 6, 7, 16 and 17, were abolished by the ordinance of 1735.

The mutual will (No. 6) was a reciprocal will made by a husband and wife, or by other persons, in favour of the survivor of them.

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The common will (No. 7) was a will made by two or more persons jointly, in favour of third or other persons.

The will by signs (No. 16) was one made by a testator without speaking; it was declared by the ordinance to be void, even if it was reduced into writing.

The testament by letters missive (No. 17) meant a will made by virtue of a letter authorizing the same to be made.

The nuncupative will, the mystic will, the rustic will, those of the blind or dumb, and that *inter liberos*, appear to have been in use solely in the *pays de droit écrit*.

Before entering into details respecting the other kinds of wills enumerated above, it may be useful to give a general notice touching the making of wills, and other matters incidental to them.

According to the Roman law, as practised in the *pays de droit écrit*, there was a marked difference between a testament and a codicil. The testament had to contain, as intimated before at p. 280, the institution or appointment of an heir; and codicils merely contained devises or bequests of legacies and trusts.

In the *pays coutumiers* there was not that material difference between a testament and a codicil which prevailed in the provinces and *pays* governed by the Roman law; yet the instrument containing the principal dispositions of a testator was called the will (*testament*), and the name of codicils was given to the instruments which contained the dispositions of a testator that were additional to those contained in his will.

Furgole, in his Treatise on Wills, Chap. II. Sect. 7 (*ante*, p. 159), treats wills made in the *pays coutumiers* as mere codicils.

By the 14th article of the ordinance of 1735, it was declared that codicils might continue to be made in the presence of five witnesses, and even of a less number, if the statutes and *coutumes* of places did not require the number of five.

The first article of the ordinance of 1738 enacted that all testamentary dispositions, of whatever nature they might be, should be made in writing; and all those which should be made verbally were declared to be null and void.

With respect to the witnesses to wills, the following principal regulations and restrictions were made by the ordinance of 1735. By article 39, the age of the witnesses was fixed at twenty or twenty-five, except in the *pays de droit écrit*, where it was sufficient if the witnesses had attained the age at which they were allowed to make wills, which was fourteen for males and twelve for females; and twenty or twenty-five (according to the variation of the *coutumes*) in the provinces governed by their own customary laws.—The 6th article of the ordinance declared that it was sufficient, if the witnesses to testaments and other acts of last will (in cases where the presence of such witnesses was necessary) were all present together; and that it was necessary that mention should be made, that they had been asked (*priés*) and convoked for that purpose.—The 40th article required the witnesses to be males, natives of the kingdom, and in the enjoyment of their civil *status*. An exception was made in respect of military wills, to which foreigners might be witnesses. Persons who had taken the vows, the clerks and servants of the notaries or scriveners who received wills, and instituted or substituted heirs, and certain other persons, were incapacitated from being witnesses. For other particulars touching witnesses to wills, see the articles 41, 48, of the ordinance, and *infra*, under the heading of each separate will.

A testamentary executor was seldom appointed by a testator in the *pays de droit écrit*. In the *pays coutumiers*, where institutions of heirs did not take place, and where at times the natural heirs (*héritiers du sang*) endeavoured to elude the execution of such wills as were unfavourable to them, it was usual for testators to appoint executors to their wills, *pour tenir la main à l'execution* of their last wills.

The office of a testamentary executor appears to have continued only for a year and a day. He had to make an inventory of the property, to sell the moveables generally, to pay the debts, funeral expenses and legacies; and to account to the heir for his executorship; but he was not obliged to find security.

With respect to the persons who might be appointed testamentary executors, it is to be observed, that generally all persons capable of entering into obligations could be appointed testamentary executors. A minor could not, nor could a married woman act, as such, without the authority of her husband. A testamentary executor might have a legacy bequeathed to him by the testator.

1. The Solemn Will.—By the 22nd article of the ordinance of 1735 it was ordered, that in all the *pays* where the forms of the Roman law did not prevail, there should be no more than two forms of making a will, namely, that for the olograph and that for the solemn will. The solemn will was dictated by the testator, and made and received by (that is, *passé devant*) two notaries or scriveners, or by one notary or scrivener, in the presence of two witnesses, and written down by them or one of them, from the dictation of the testator. Other public functionaries, who will be found enumerated in the 24th and 25th articles of the same ordinance, and in Ferrière's *Dictionnaire*, article "*Testament solennel*," could also receive such wills.

2. The Olograph Will.—This was a will written wholly and exclusively by the testator, and also dated and signed by him. A single word written by another hand would annul the will. The signature was to be at the end of the will. Witnesses were not necessary to this kind of will in the *coutume* of Paris, nor in the other *coutumes* which did not make mention of them. Proof of such a will was made by comparison of the testator's handwriting and signature. This form of will was in use in the *pays coutumiers*, and not in the *pays de droit écrit*. The provinces and *pays* (except the Beaujolais) within the jurisdiction of the parliament of Paris, admitted the use of this kind of will; and it was also allowed in the *pays de droit écrit*, when made by fathers or mothers in favour of their children (*entre leurs enfants—inter liberos*).

The 19th article of the ordinance declared that the use of wills, codicils and other last olograph *dispositions* should continue in those *pays* and in the cases wherein it had theretofore prevailed; and such wills, &c. had also to be wholly written, and dated and signed by the testator.

3. The Mystic or Secret Will (also called *clos* and at times *solennel*).—In order to make this kind of will, the testator had to sign the will, whether it was written by himself, or by another person for him by his direction; and the paper containing the will, together with the paper which served as a cover (*enveloppe*), if there was one, was to be closed and sealed in the manner required in such cases. The testator then presented the paper, thus closed and sealed, to seven witnesses at the least, including the notary or scrivener; or he had to close and seal it in their presence, and to declare that the paper thus presented was his will written and signed by him, or written by another person

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and signed by him; whereupon the notary or scrivener had to make a memorandum (*acte*) of subscription, which was to be written either upon the will (*papier*) itself or upon the envelope, and which had to be signed by the testator, the notary or scrivener, and the other witnesses: it was not necessary for every one of the witnesses to put his seal to the *acte*. All these proceedings were to be *de suite*, and *sans diverter à autres actes*; and in case the testator, through any impediment which had happened since the signing of the will, was incapacitated from signing the *acte* of subscription, mention was to be made of the declaration thereof made by him, without there being any necessity, in that case, of increasing the numbers of the witnesses. If the testator did not know how to write, or was incapacitated from writing at the time he made his will, it was necessary (article 10) that an additional witness should be called in, who was to sign with the other witnesses; and mention was to be made of the reason why the additional witness was called in. Those persons who did not know how to read, or were unable to read at the time they wished to make their wills, were not allowed to make a mystic will.

4. THE NUNCUPATIVE WILL (called, in the 5th article of the ordinance of 1735, *testament nuncupatif écrit*) was to be dictated by the testator in an intelligible voice, in the presence of at least seven witnesses, including the notary or scrivener, who was to write out the items as they were dictated; after which the whole of the will was to be read to the testator, of which reading mention was to be made by the notary or scrivener; the will was then signed by the testator, the notary or scrivener, and the other witnesses, and the whole proceeding had to take place *de suite* and without *divertir à autres actes*. If the testator declared that he did not know how to write, or could not write, mention was to be made of that fact.

5. THE WILL INTER LIBEROS (*entre enfants, &c.*)—Wills made by parents in favour of (*entre*) their children and other descendants, in the *pays de droit écrit*, were by the 15th article of the ordinance to be valid, if made in the presence of two notaries or scriveners, or of one notary and two witnesses; or if they were olograph, they were to be wholly written, dated, and signed by the testator (article 16).

All acts of division made by parents among their children or other descendants, to take effect after the decease of the parents, were required to be in the form prescribed for wills *inter liberos* (*entre enfants, &c.*)

6, 7.—See *ante*, pp. 387, 388.

8. THE WILL OF A DUMB PERSON.—If a person could not speak, either through some natural defect or otherwise, but was able to write, he might make a mystic will, provided it was wholly written, dated and signed by such testator; he was also to present it to the notary or scrivener and the other witnesses, and to write at the top of the memorandum (*acte*) of subscription that the paper presented to them was his will: the notary or scrivener thereupon wrote out the *acte* of subscription, in which mention was made that the testator had written those words in the presence of the notary or scrivener; and moreover the regulations concerning the mystic will were also to be observed.

9. THE WILL OF A BLIND PERSON.—If the testator was blind, or if at the time of making his will he had not the use of his sight, it was necessary (art. 6 of the ordinance) to call in an additional or eighth witness, that is, one above the

number required by the ordinance in respect of a written nuncupative will; and the additional witness was to sign with the other witnesses.

10. The Soldier's Will.—According to Ricard, in his Treatise on Donations (*ante*, p. 151), this kind of will was first introduced into France in the year 1409. By the ordinance of 1735 (articles 27—29), soldiers' wills had to be made in the presence of two notaries or scriveners, or of one notary or scrivener and two witnesses, or in the presence of two of the following officers, namely, the majors and officers of a superior rank, the *prévôts des champs et armées*, their lieutenants or *greffiers*, and the *commissaires des guerres*, or of one of the above-mentioned officers and two witnesses; and in case the testator should be ill or wounded, he might make his will in the presence of one of the chaplains (*aumôniers*) of the regiment or of the hospitals, with two witnesses. The testator had to sign the will, and if he was incapacitated from signing it, or declared that he did not know how to sign, or was incapacitated from signing it, mention was to be made of such fact. The above *actes* had to be signed also by those who received them, and by the witnesses: these witnesses were not, however, required to be persons capable of signing, unless the testator himself was incapable; but if any of the witnesses declared that he (the witness) was incapable of signing, it was sufficient if mention was made of such fact. Other regulations touching this kind of testament will be found in the 30th, 31st and 32nd articles of the same ordinance.

11. The Maritime Will.—This will was made at sea, and the formalities respecting it were prescribed by the maritime ordinance of 1681 (*ante*, p. 21). It had to be written or signed by the testator, or received by the clerk or writer of the ship, in the presence of three witnesses, who signed with the testator; and if the testator was incapacitated from writing or did not know how to write, mention was to be made of such fact. This kind of will appears to have included only the effects of the testator on board the ship, and the wages due to him.

12. A Will made in Time of Plague.—By the 33rd article of the ordinance of 1735, it is declared that wills, codicils or other *dispositions à cause de mort*, might be made in the presence of two notaries or scriveners, or of two officers of the royal or seigneurial or municipal jurisdictions, or before a notary or scrivener, with two witnesses; or before one of the officers above named, with two witnesses; or in the presence of the vicar or officiating clergyman (*desservant*), or the curate or other priest whose office it was to administer the sacrament to the sick, and of two witnesses. The 28th article of the ordinance, which relates to soldiers' wills, was also applicable to this kind of wills. Olograph wills might also be made in time of plague, if they were wholly written, dated and signed by the testator, and made with the formalities mentioned above respecting this kind of wills.

13. The Will for Pious Causes.—These wills were subject to the same formalities as other wills.

14. The Will apud Acta.—This will was made before the local judge or one of the municipal officers. It required two witnesses in some of the *coutumes* which allowed it.

15. The Rustic Will.—This kind of will, which was made by rustic persons, required in cities and boroughs at least two or more witnesses who knew how to sign (*signer*), and were not incapacitated from signing; and at least two such witnesses, in other places in the country. If the witnesses did not know how

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to write, or were incapacitated from signing, mention was to be made of their being present, and of their incapacity, &c.

16, 17.—See *ante*, p. 388.

II. *What Persons might make Wills, and who might take under them.*

All persons in the possession of their understanding, being of proper age, and in enjoyment of their civil rights, might generally make their wills. Foreigners (*aubains*), persons who had taken the vows, persons condemned to death or to perpetual banishment, &c. (with certain exceptions), lunatics, interdicted spendthrifts, dumb persons who could not write, a *fils de famille* domiciled in the *pays de droit écrit* (except as to his *peculium castrense*),—were all severally incapacitated from making their wills. Married women might make their wills. In the generality of the *pays coutumiers*, the power of making a will was given to males at twenty, and to females at eighteen years of age.

With respect to those persons who were either wholly or partially incapacitated from taking under wills, the following classes of persons are enumerated by Pothier, in the second chapter of his Treatise on Testamentary Donations (*ante*, p. 168):—1. Those persons who were deprived of their civil *status*, as persons who had taken the vows, persons condemned to death, &c.; corporations, unless duly authorized; convents of Capuchins, foreigners when not naturalized, —were all incapacitated. 2. Corporations duly authorized, and those who were called *gens de main morte*, might take money and other moveables under a will. 3. Medical persons in attendance on testators, and their *curateurs*, *tuteurs*, confessors, &c. were incapacitated from taking under their wills; married persons were allowed, by some of the *coutumes*, to make wills in favour of each other; bastards might be special, but not universal legatees; servants might be legatees, if the legacies bequeathed to them were not excessive. 4. In the *pays de droit écrit*, an heir could be charged with a legacy to himself; but in the greater part of the *pays coutumiers*, the axiom that "none could be heir and legatee" prevailed. See further on this subject Pothier's Treatise on Testamentary Donations, chap. 3, sect. 3, noticed *ante*, p. 168.

III. *What Property might be disposed of by Will.*

In the provinces and *pays* that were governed by their own customary laws, a person could dispose (by way of will) only of the fifth part of his *propres*, the rest descending, by law, to his children or other natural heirs (see *supra*, "PROPRES"). He could, however, dispose (by will) of his moveables, and also of his *acquêts* (see *supra*, "ACQUÊTS").

In the provinces and *pays* where the Roman law prevailed, a person could dispose (by his will) of all his property, of whatever description it might be, with the reservation, however, of the *légitime*.

IV. *Of the Opening of a Will, &c.*

Furgole states that there was no particular law regulating the competency of the judge who had to proceed to the opening of a will, and adds that it could be done before the judge of the place of the testator's domicile at the time of his death, or the judge within whose jurisdiction the will was deposited, or before the judge of the place where the inheritance (*biens héréditaires*) or the greater

part of it lay. Wills might also be opened by notaries, and such opening was as valid as if it had been effected by the judge.

The following are the formalities required on such occasions, as mentioned by Furgole, in his Treatise on Wills, chap. 2, sect. 4 (*ante*, p. 159):—

The witnesses to the will were summoned to appear before the judge or notaries (as the case might be) at a fixed place, day and hour, to recognize the will, &c. (*reconnaître l'état du testament*); and the nearest relations *ab intestat* were also to be present; but their presence does not appear to have been absolutely necessary. The witnesses, or such of them as were then living, being present on the occasion, the will was produced to be recognized by them. The judge or notary had then to draw up a *procès-verbal* or *acte* of what took place before him, and chiefly as to the recognition or acknowledgment of the will and the seals; and if the act of subscription was not received by a public or official person, he (the judge or notary) had to mention that the opening and publication of the will had been proceeded with. If there were several original wills, the opening of one was sufficient.—Furgole adds, that wills which were closed did not require this formality.

Wills were required to be published and registered.

EXPLICATION DE L'ORDONNANCE DE 1735, concernant les Testamens; par René Aimar. 4to. Avignon, 1751.

An Explanation of the Ordinance of 1735 on Wills, by Aimar.

The best and most copious work on this subject is that by Furgole, noticed *supra*, p. 159.—See also the works of Ricard, *ante*, p. 151; and of Pothier, No. 23, *ante*, p. 168; and also *supra*, "INSTITUTION OF HEIR," "INSTITUTION CONTRACTUELLE," "SUBSTITUTIONS," and "SUCCESSIONS."

Some remarks by Mr. Purton Cooper on this subject will be found in his "Notes on Registration," noticed *ante*, p. 279.

As the compiler has derived many of the materials for the compilation of this part of the Catalogue, and much information, from the perusal of the eight following works, he has thought proper to insert them at the end of this part, although they are not exclusively devoted to the ancient laws and jurisprudence of France:—

1. ENCYCLOPÉDIE MÉTHODIQUE: Jurisprudence. 10 vols. 4to. Paris and Liege, 1782—91.

This is a division of the great French Encyclopædia (called the *Encyclopédie Méthodique*), which contains a repertory of law, in alphabetical order. Numerous valuable articles on the ancient jurisprudence of France, and particularly those relating to the parliaments, will be found in this work. The last two volumes comprise the municipal institutions and police, &c.

M. Lerasle, a professor of law, and an advocate in the parliament of Paris, was the first editor or compiler of this work. The most important articles in this repertory have the name of the author affixed to each of them.

2. Essai sur l'Histoire Générale des Tribunaux des Peuples tant Anciens que Modernes, ou Dictionnaire Historique et Judiciaire; contenant les Anecdotes piquantes et les Jugemens fameux des Tribunaux de tous les temps et de toutes les nations. Par M. Des Essarts, Avocat, &c. 9 vols. 8vo. Paris, 1778—34.

This is an Historical Account of the Courts of Law and Judicial Constitution of the different Nations of the World, both ancient and modern. It contains (under the title of "anecdotes," &c.) many remarkable trials and legal anecdotes, &c. The arrangement is alphabetical. The third volume contains a very minute account of nearly all the courts and tribunals of France previously to the Revolution in 1789. It is a very useful work.

Nicolas Lemoyne Des Essarts, at one time an advocate in the parliament of Paris, and afterwards a bookseller in that city, was born at Coutances on the 1st of November, 1744, and died at Paris on the 5th of October, 1810. He composed other works besides the present. See *ante*, pp. 115, 332.

3. Catalogue des Livres imprimés de la Bibliothèque du Roi; Jurisprudence. 2 vols. fol. Paris, 1753.

This is the part of the catalogue of the printed books of the Royal Library at Paris, which comprises books on the jurisprudence of France and other countries. The other portions of the catalogue treat of "Theology" and "*Belles Lettres*," and are comprised in 6 vols. fol. Paris, 1739—53. The manuscripts of the same library are included in 4 vols. fol. Paris, 1739—44.

4. Bibliothèque Historique de la France, contenant le Catalogue des Ouvrages imprimés et Manuscrits qui traitent de l'Histoire de ce Royaume, ou qui y ont Rapport; avec des Notes Critiques et Historiques: par feu Jacques Lelong, Prêtre de l'Oratoire, &c. Nouvelle Édition, revue, corrigée et considérablement augmentée, par feu M. Févret de Fontette, Conseiller au Parlement de Dijon, &c. 5 vols. folio. Paris, 1768—78.

The Historical Library of France, being a Catalogue of Printed and Manuscript Works relating to the History of that Kingdom, by Lelong. This is the best edition of the work, edited by Févret de Fontette.

Jacques Lelong, a priest of the *Oratoire* at Paris, was born in that city on the 19th of April, 1665, and died on the 13th of August, 1721. A list of his valuable works will be found in the *Biographie Universelle*, article "Lelong."

Charles-Marie Févret de Fontette, a descendant of the author of the treatise *De l'Abus* (see *ante*, p. 254), was born at Dijon on the 14th of April, 1710, and died in that city on the 16th of February, 1772.

This highly important and valuable work is divided into five books, which are subdivided into chapters, articles, sections, &c. The fifth volume consists of indices. The following are the general contents of the volumes:—

Vol. I.—Book 1. General Preliminaries of the History of France.—Chapter 1. The geography of Gaul and the kingdom of France; 2. Natural history of the kingdom of France.

Book 2. Ecclesiastical History of France.—Chapter 1. History of the origin of the churches of France; 2. Lives of the saints of France; 3. Ecclesiastical history of the provinces and cities of France; 4. History of the disputes among the French theologians; 5. History of heresy in France; 6. Acts and treatises touching the general history of the French churches; 7. Of the rights and benefices of the French church; 8. History of the ecclesiastical government, or of the metropolitans and their suffragans; with the histories of the second order of the French clergy; 9. History of the regular clergy, or of the monastic orders and other religious communities.

Vol. II.—Book 3. Political History of France.—Chapter 1. Preliminaries of the history of the French kings; 2. History of the French kings. This chapter is arranged chronologically, and in the order of the reigns of the various kings; it ends at the year 1768. 3. Histories of the royal family of France; 4. The *cérémonial* of France; 5. Political treatises touching the kings and kingdom of France.

Vol. III.—Book 3 (*continued*). Chapter 6. Collections of public acts, charters, treatises and other political works, &c. touching the history of France; 7. Treatises and histories of the great officers of France, including the great officers of justice, the parliaments and other sovereign courts.

Book 4. Civil History of France.—Chapter 1. Civil histories of the French provinces; 2. Histories of the countries which belonged to ancient Gaul, but which no longer (then) belonged to France; 3. Histories of the French colonies; 4. Histories of the nobility and illustrious families of France; historical *mémoires* concerning several modern French historians, forty-four in number; the earliest of these regards Joinville, and the latest Villaret.

Vol. IV.—Book 5. Literary History of France.—Chapter 1. General histories of French literature, and histories of universities and academies; 2—5. General and particular collections of histories, lives and eulogies of Frenchmen distinguished in the sciences and liberal arts, and in the fine arts; 6. Lives and eulogies of illustrious and learned French women. Supplements to the first four volumes; an appendix, containing a table of a collection of documents relating to the history of France, which formerly belonged to M. De Fontanieu; a detailed list of a collection of engravings, drawings, &c., concerning the history of France, collected by M. Févret de Fontette; a list of drawings collected by M. de Gaignières.—These three collections are in the *Bibliothèque du Roi* at Paris.—A copious alphabetical list of portraits of eminent Frenchmen and French-

women, the greater part of them being engravings, the rest being paintings, drawings, &c.

Vol. V.—Supplement to the five volumes; eight indices,—the first, of subjects, but subdivided,—the second, of geography,—the third, of chronology,—the fourth, of chronicles, &c.,—the fifth, of persons,—the sixth, of subjects (alphabetical),—the seventh, of manuscripts,—and the eighth, of authors.

5. DICTIONNAIRE GÉOGRAPHIQUE, HISTORIQUE ET POLITIQUE, DES GAULES ET DE LA FRANCE; par M. l'Abbé Expilly, Chanoine-Trésorier en Dignité du Chapitre Royal de Sainte-Marthe de Tarascon, &c. 6 vols. fol. Paris et Amsterdam, 1762—70.

A Geographical, Historical and Political Dictionary of France, by the *Abbé* Expilly. This is an exceedingly useful work, and contains very full accounts of the courts of law, both lay and ecclesiastical; it is unfortunately incomplete, as it reaches no further down than the letter "S" inclusively.

Jean-Joseph Expilly was born in Provence in 1719, and died in 1793.

A list of his other works, which are chiefly on geographical or statistical subjects, will be found in the *Biographie Universelle*, article "Expilly."

6. LE GRAND DICTIONNAIRE HISTORIQUE, ou le Mélange Curieux de l'Histoire Sacrée et Profane, &c.; par M^re^ Louis Moréri, Prêtre, Docteur en Théologie. 10 vols. fol. Paris, 1759.

An Historical Dictionary, by Moréri, a French divine.

This is a very excellent universal, biographical, geographical and genealogical dictionary. The biographical and geographical portions are exceedingly valuable. Although this work bears the name of Moréri, yet but little of his composition is comprised in it. The original work was published in a single volume in folio, at Lyons in 1674, and Moréri died before a second edition had made its appearance. The present is the nineteenth or twentieth edition, and includes the supplement of the *Abbé* Goujet. It is edited by Drouet.

Louis Moréri was born in Provence in 1643, and died in 1680. He composed various other works besides the present, a list of which will be found in the *Biographie Universelle*, article "Moréri."

7. BIOGRAPHIE UNIVERSELLE, ANCIENNE ET MODERNE, ou Histoire, par Ordre Alphabétique, de la Vie Publique et Privée de tous les Hommes qui se sont fait remarquer par leurs Écrits, leurs Actions, &c. Rédigé par une Société de Gens de Lettres et de Savans. 52 vols. 8vo. Paris, 1811—28.—Supplément au même ouvrage. 29 vols. 8vo. Paris, 1832—47.

A Universal Biography, Ancient and Modern, of all those Persons who

have been remarkable for their Writings, their Actions, &c.; by a Society of Literary Men.—This work was concluded in 1828, and since that time supplementary volumes have been published, which reach down at present only to the letter S. The Supplement includes four volumes of the Mythology of various nations, both ancient and modern.

This biography is by far the most extensive and the best that has been published. The compilers of the work are among the most eminent scholars of France; a few of them, however, belong to other countries. The names of the contributors to each volume are inserted in a list at the beginning of the volume.

8. L'Art de vérifier les Dates des Faits Historiques, des Chartres, des Chroniques, et autres Anciens Monumens, &c. 8 vols. fol. Paris, 1783—1836.

The Art of verifying the Dates of Historical Facts, Charters, Chronicles, &c., from the beginning of the world till the present time. The first edition of this work, which was contained in a single volume, began with the birth of Christ. The edition of 1783 (in three volumes) carried the work down to the year 1770. The original compilers were Dom Maur d'Antine, Dom Charles Clémencet, and Dom Ursin Durand, Benedictine Monks. In 1820, an additional volume was published by the Chevalier de Courcelles, which comprised the period anterior to the birth of Christ; and in the interval between the years 1820 and 1836, four volumes, continuing the work to the present period, have been published by M. de Saint-Allais and a society of *savans* and *literati*. A fifth volume is also in the course of publication.—There are editions of this important and valuable work printed in 4to. and in 8vo.

The work is divided into three parts, the contents of which are as follows:—

Part I.—This part contains the chronologies anterior to the birth of Christ. Its contents are—a preliminary discourse; a chronology of eras, &c.; a chronology of lunar and solar eclipses; a dissertation on the ancient year; chronological remarks on the duration of the first two ages of the world, &c.; chronologies of the sacred history, of the high priests of the Jews, the governors of Syria, the kings of Egypt, Tyre and Sidon, the ancient kings of Syria, the Seleucidæ of Syria, of the kings of Babylon, Assyria, Media, Persia, Parthia, Armenia, Bactria, Emesa, Edessa, Albania, Colchis, Iberia, Adiaberia, Cappadocia, Pontus, the Cimmerian Bosphorus, Bithynia, Pergamus, Lydia, Caria,—the republic of Rhodes, the kings of Epirus and Thrace.

Chronology of the Attic year,—chronicle of the Parian marbles,—table of the archons of Athens,—the Olympic games,—tables of the Olympiads, or *Fasti* of Greek history,—chronologies of Athens, Macedonia and Sparta, of the tyrants and kings, &c. of Sicily, the chiefs of Carthage, the kings of Mauritania and Numidia, the sovereign princes of Arabia, till the time of Mahomet, and the emperors of China.

A discourse on Roman chronology, &c.,—the Roman calendar, &c.,—Chronology of the history of Rome,—several tables.

Part II. Vol. I.—A preface; a dissertation on the dates of charters, chronicles, &c.; a chronological table of the Olympiads and numerous other eras; a chronological series of eclipses of the sun and moon, from the birth of Christ till the year 2000; perpetual lunar and solar calendars; a glossary of dates; an alphabetical and chronological list of saints; calendar of the modern Jews; governors of Syria from the birth of Christ; high-priests of the Jews, from the same time till the year 64; a chronology of the New Testament; chronologies of councils, the popes and patriarchs, of Roman consuls and Roman emperors, from the birth of Christ (including the kings of the Goths, Vandals, Lombards, the exarchs of Ravenna, the emperors of the East), and of the governors and Christian kings of Armenia, &c.

Chronologies of the califs and the sultans of Egypt, &c., and of the Ottoman emperors; chronology of the grand masters of Malta and of the Temple; chronologies of the kings of France (including the Wisigoths of Aquitaine, &c.), and of the kings of Spain, Portugal and England.

Vol. II.—Chronologies of the emperors of the West, and of the kings of Germany and Hungary, the dukes and kings of Poland, the kings of Denmark and Sweden, the grand-dukes, czars and emperors of Russia,—the emperors of China and Japan; chronologies of the great fiefs of France.

Vol. III.—Chronologies of the great fiefs and states of the Low Countries, Germany and Italy.—This volume has an alphabetical index of names.

Part III. Vols. I. and II.—These two volumes continue the chronology from 1770 to the present time, and include France, England, Holland, the Low Countries, the emperors of Germany, the minor states of Germany, Bavaria, Prussia, Switzerland, Spain and Portugal, the various states of Italy; the popes, Russia, Denmark and Sweden.—The second volume has a concordance of the Gregorian and French republican calendars.

Vols. III. and IV. comprise the various states of America, giving an account of them from the period of their conquest by the Spaniards and other nations till the present time.

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* The following extract from Ferrière's *Dictionnaire*, article *Congrès*, will remove any doubt which the reader may entertain as to the nature of this strange ceremony.

"[*Le*] *Congrès* était une preuve juridique qui se faisoit autrefois dans les causes de mariage, quand on en prétendoit la nullité pour cause d'impuissance.

"Cette espèce de preuve, inconnue au Droit Civil et au Droit Canon, s'étoit introduite dans les tribunaux ecclésiastiques vers le milieu du sixième [seizième] siècle.

"Cette preuve honteuse se faisoit en présence des chirurgiens et des matrônes, par ordonnance des juges ecclésiastiques, quand une femme demandoit la dissolution du mariage, à cause de l'impuissance de son mari.

"On en attribue l'origine à l'effronterie d'un jeune homme, qui accusé d'impuissance par sa femme, s'offrit à démontrer en presence de chirurgiens et de matrônes la fausseté de cette accusation. Le juge trop facile lui accorda sa demande, la croyant un moyen infaillible de découvrir la vérité.

"Cette preuve, quelque contraire qu'elle soit à la pureté de nos mœurs, forma une jurisprudence reçue dans les officialités, et autorisée par les arrêts."

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* "Et ego vidi in curia Bituricensi [Bourges] coram metropolitano processum appellationis, in quo rector seu curatus parochialis prætendebat ex consuetudine primam habere carnalem sponsæ cognitionem, quæ consuetudo fuit annullata, et in emendam condemnatus. Et pariter dici audivi, et pro certo teneri, nonnullos Vasconiæ dominos habere facultatem prima nocte nuptiarum suorum subditorum ponendi unam tibiam nudam ad latus neogamæ cubantis, aut componendi cum ipsis. Et similiter reperi Ambienensem [Amiens] episcopum pro licentia ad per eum seu oratorem neogamis seu noviter maritatis cubandum prima, secunda, et tertia noctibus danda, solitum in civitate de Bellavilla certum quid exigere, quod alibi solitum reperi fuisse factum, ut narrat Imperator in Authentica [134]—*Ut nulli judicum, &c., § et hoc pervenit ad nos, &c., ib., nec nuptias aliquas facere*, quod ibi corrigit, et abusivum declarat. Sicut per arestum curiæ Parisiensis fuit pro dicto episcopo Ambienensi, cui à cætero inhibitum fuit nihil pro dicta licentia exigere." — Boerii *Decisiones Burdegalenses*, fol. 532, ed. fol. Lyons, 1579.

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—— 3, line 19, *for* " 504," *read* " 524."
—— 6, line 15, after the word " Alsace," *insert* " (modified by its own customary laws)."
—— 11, line 27, *for* " *thaluptas*," *read* " *thalaptas*."
—— 19, line 32, *for* " adjournments," *read* " summonses."
—— 22, line 2, *for* " adjournments, *read* " summonses."
—— 25, line 5, *for* " *private*," *read* " *privati*."
—— 28, line 6, *for* " kindred (*par parage*)," *read* " *parage*."
—— 36, line 11 from bottom, *for* " adjournments," *read* " summonses."
—— 40, third line from bottom, *for* " *aubaines*," *read* " *aubanies*."
—— 43, line 24, *for* " in the modern part of this Catalogue," read " *infra*."
—— 103, line 6, *for* " sovereign court of Nancy," *read* " parliament of Nancy."
—— 107, line 11 from bottom, *for* " *Châtelet*," *read* " *Châtelet de Paris* (The)."
—— 137, line 6, *for* " disherison," *read* " escheat."
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—— 150, line 23, *for* " maxim," *read* " maxims."
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—— 181, line 16, *for* " provided for," *read* " reserved."
—— 198, line 20, *for* " principal other," *read* " other principal."
—— 199, line 18 from bottom, *for* " court," *read* " courts."
—— 201, line 10 from bottom, *for* " parliament," *read* " council."
—— 205, line 5, after "*censuelle*," *insert* a comma.
—— 210, line 26, *for* " the *prévôté*," *read* " *la prévôte*."
—— 221, line 22, *for* " elections," *read* " *élections*."
—— 232, line 21, after " 1649," *insert* " See *ante*, p. 196."
—— 244, line 15, *for* " Maussière," *read* " Mauvissière."
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—— 258, *dele* line 5.
—— 265, line 5, *dele* after p. 26).
—— 267, line 7 from bottom, *for* " *apanage*," *read* " appanage."
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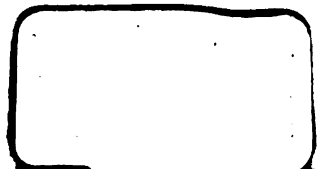
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